

A

Previous References
Lys 22-37-1

1938.
(*Lys*)

File No. 6 of 38

Serial Nos. 1

Letter References

PRESERVED

97

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. *one only*

Part *A* for *July 1938.*

SUBJECT.

*Promulgation into Law of the Code of Civil
Procedure (Amendment) Act, 1938.
Attachment of Pray.*

(1) Notification No. D 310/Lys 6-38-1. dated 15/7/38

Serial
No.

Extract from file D. No. 1886
76
on report on the indebtedness
of officers

"In respect of attachment
of salary by civil courts, the
exemption limit may be
raised from Rs 20 to Rs 50
(Some members are of opinion
that net pay drawn by an
official after compulsory
contributions to Insurance
P.F. are deducted - should be
taken into account for this
purpose). In Madras it
has been raised to Rs 40
under the C.P.C. of 1923.
The exemption in regard
to attachment of salary
is limited to Rs 20. In
Br. India this limit
has been raised to
Rs 40 in 1923. This amend-
ment has not been adopted
here.

except in the
case of clerks
in favour of
Cooperative Societies.

2) The exemption is perhaps
based on the principle that

a minimum amount should be left free of attachment sufficient for the maintenance of the debtor.

If the limit of Rs 20 is to be raised the C.P.C. rules have to be amended.

Su. 10. for orders.

See

23/11

W.H.

Re Dr. Indran amendment
Bill may be put up (the amendment
as well as the obj's & reasons may be typed
& put up)

24/11/34

4) Su. 10. with a typed copy
of the views of Indran Bill

See

6/12

W.H.

5) In view of the rise in the
cost of living, it was considered in
British India that the amount
of salary immune from attachment
should be raised to Rs 40/-.

6) We may also amend the C.P.C. Act
Similarly
Chief Secretary
18/12/34

27/12/34
12/12/34

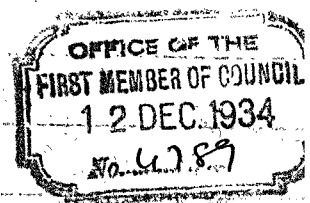
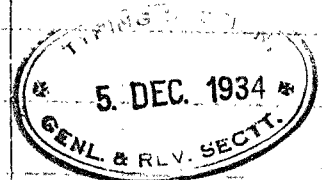
20 The typing
section for
typing & copying
of bill at
P. 240 Part 2
of the Gazette
(Bill No. 20)

See

4/12

W.H.

S.L.J.



6/12/34

Serial
No.

DEWAN'S OFFICE
1-3 DEC. 1934
No. 3259

7) The copy being has now gone down. but, I think,
the amendment may be applied as
the High Court may be consulted
by
19/12
Dewan

M
13-12-34

Ry
14/12/34

8) Saw with a draft to R. H. C.
Court

See
15/12
Jus

9) Issue
15/12

No P. 3059 of 19/12 to R. H. C.
calling for the views of
the High C.
No 108 of 11/1 from R. H. C.
stating that the judges
are in favour of the amend-
ment.

Sar A 2
21-12-34

10) Saw with the supervisor
to para 7

See
28/1
Jus

11) The High Court is in favour of
The amendment. If approved a
draft Bill will be put up

OFFICE OF THE
MEMBER OF COUNCIL
25 JAN. 1935
5651.

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

CHIEF SECRETARY
24 JAN. 1935

Chief Secretary
Jus

Ry 28/1/35
Jus

File No.

of 1934

Vol. of 1934

General and Revenue
Secretariat

13) Subw - with a draft with
with a statement of objects
& reasons.

In 1925 a proviso
to Clause (i) of S. 60 C. P. A.
was added in B. India
by Act XX of 1925
excluding Co-operative
societies from the operation
of the enhanced limit.

For objects & reasons
vide L. of India No 109

760

761

See

7/2

9/2/35

8/2/35

14) Draft Bill statement of objects &
reasons are for consideration

2nd Member)

6/8/35

15) Jm
10/2/35

6/11/2

16) Council's resolution may be sent
to C. B.

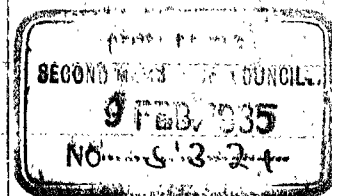
See

12/2

9/2/35

Chief Secretary)

6/17/35



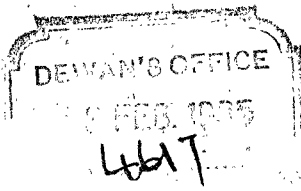
Amendments - Civil Procedure Code — Attachment of Salary

General and Revenue
Secretariat

File No

of 193

App. F. III—2



Serial
No.

17) This may be disposed of by circulation.

Dewan—

Reg
13/2/35—

18/2

18) Ms
13.2.35.

Copy
Reg
ve

1934-5

GENERAL AND REVENUE SECRETARIAT

Council Matter

Subject

Bill to amend Section 60 of the Code of Civil Procedure Code,
1911, regarding attachment of salary of Government servants.

Circulated to the Members of Council

By Order,

R. Narayana

Chief Secretary to Government.

14th February 1935.

5897
15/2 First Member of Council

ke
16/2

19)

5476
15/2 Second Member of Council

Jor
15/2

20)

12/2
10/2

D.F.N
6
19/2

A Bill further to amend the Code of Civil Procedure, 1911, for certain purposes.

* * * * *

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1911, for the purposes hereinafter appearing; It is hereby enacted as follows:-

1. This Regulation may be called the Code Short title ^(Amendment) of Civil Procedure Regulation, 1937.

2. In the proviso to sub-section (1) of Amendment of Section 60, Regulation III of 1911. of Section 60 of the Code of Civil Procedure, 1911.

(a) for clauses (h) and (i) the following clauses shall be substituted, namely:-

"(h) the wages of labourers and domestic servants, whether payable in money or in kind; and salary, to the extent of the first fifty rupees and one-half the remainder of such salary;

(i) the salary of any public officer or of any servant of a railway company or local authority to the extent of the first fifty rupees and one-half the remainder of such salary.

Provided that, where the whole or any part of the portion of such salary liable to attachment has been under attachment, whether continuously or intermittently for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months and where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree;"

(b) for clause (n) the following clause shall be substituted, namely:-

"(n) any allowance forming part of the emoluments of any public officer or of any servant of a Railway company or local authority which the Government may by Notification in the Official Gazette declare to be exempt from attachment, and any subsistence grant or allowance made to any such officer or servant while under suspension."

(c) The Explanation at the end shall be renumbered as explanation one and to the explanation so renumbered the following words shall be added viz., ~~as in the Government of India Act:-~~

"and in the case of salary other than salary of a public officer or a servant of a railway company or local authority the attachable portion thereof is exempt from attachment until it is actually payable" and

(d) after the explanation as so renumbered the following explanation shall be added namely

"EXPLANATION 2- In clauses (h) and (i), 'Salary' means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (k) derived by a person from his employment whether on duty or on leave".

3. The amendments made by section 2 shall not have effect in respect of any proceedings arising out of any
 Retrospective effect.) suit instituted before the
 first day of June, nineteen
 hundred and thirty eight.

A Bill further to amend the Code of Civil Procedure, 1911, for certain purposes.

Whereas it is expedient further to amend the Code of Civil Procedure, 1911, for the purposes hereinafter appearing; It is hereby enacted as follows:-

1. This Regulation may be called the Code (short title) of Civil Procedure Amendment Regulation,

1934.-

2. In the proviso to sub-section (1) of Section
Amendment of Section ¶ 60 of the Code of Civil
60, Regulation III of ¶
1911. ¶ Procedure, 1911 -

(a) for clauses (h) and (i), the following clauses shall be substituted, namely:-

(h) the wages of labourers and domestic servants, whether payable in money or in kind; and salary, to the extent of the first fifty rupees and one-half the remainder of such salary;

(i) the salary of any public officer^{or} of any servant of a railway company or local authority to the extent of the first fifty rupees and one-half the remainder of such salary;

Provided that, where the whole or any part of the portion of such salary liable to attachment has been under attachment, whether continuously or intermittently for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months and where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree;"

(b) for clause (k) the following clause shall be substituted, namely:-

(k) any allowance forming part of the emoluments of any public officer or of any servant of a Railway company or local authority which the Government may by Notification in the Official Gazette declare to be exempt from attachment, and any subsistence grant or allowance made to any such officer or servant while under suspension.";

(c) The explanation at the end shall be renumbered as explanation one and to the explanation so renumbered the following words shall be added :-

"and in the case of salary other than salary of

a public officer or a servant of a railway company or local authority the attachable portion thereof is exempt from attachment until it is actually payable" and

(d) after the explanation as so renumbered the following explanation shall be added namely:

"EXPLANATION2- In clauses (h) and (i), 'Salary' means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (k) derived by a person from his employment whether on duty or on leave".

3. The amendments made by section 2 shall not have effect in respect of any proceedings arising out of any suit instituted before the first day of June, nineteen
Retrospective effect. hundred and thirty eight.

---000---

KRR.4.

For General Secretary to Govt
Cm

Statement of Objects and Reasons.

The Royal Commission on Labour drew attention to the indebtedness prevailing among certain classes of workers and expressed the view that this was due mainly to the credit enjoyed by them and the facilities afforded to creditors by the law relating to the attachment of salaries. With a view to reducing credit, the commission recommended that wages and salaries of Workmen receiving less than Rs.300/- a month should be entirely exempted from attachment. The Government of India after consulting the provinces came to the conclusion that Rs.100/- was a more suitable limit than Rs.300/- and they also considered that the recommendations made by the Royal Commission which applied to Workmen should apply equally to the public Officers, servants of Local Bodies and Railway servants as well. Action was accordingly taken by the Government of India to amend Section 60 of the Code of Civil Procedure relating to the attachment of salary and ~~that Section~~ ^{the Section} has ~~been~~ ^{been} suitably ~~been~~ amended by Act IX of 1937.

2 The Committee appointed to examine the question of indebtedness of officials *in Mysore* have also recommended that in respect of attachment of salary by Civil Courts the exemption limit may be raised from Rs.20/- to Rs.50/-.

3 At present in Mysore the salary

salary wholly exempt from attachment is Rs.20/- and where the salary is Rs.40/- Rs.20/- is exempt and moiety of it in other cases. Having regard to the conditions prevailing in Mysore, Government consider that salary up to and inclusive of Rs. 50/- and also one-half of the remainder of such salary should be exempt from attachment. ^{It is} Government accordingly proposed to amend Section 60 of the Code of Civil Procedure ~~to carry out the above~~ ^{on the basis of} ~~object in accordance with~~ the amended Act IX of 1937 of British India.

4 ~~At the same time~~ the Bill empowers Government to exempt any allowance forming part of the emoluments of any public officer or of any servant of a Railway Company or local authority and any subsistence grant or allowance made to any such officer or servant while under suspension.

6 ^{It further} ~~The Bill also~~ provides that the amending legislation shall apply to all suits instituted after a certain date. The existing decree and suits will not therefore be affected.

5 ^{It} ~~The bill~~ also allows the attachment of leave allowances of these debtors which was hitherto exempt from attachment.

Statement of Objects and Reasons.

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2. The Committee appointed to examine the question of indebtedness of officials in Mysore have also recommended that in respect of attachment of salary by Civil Courts the exemption limit may be raised from Rs.20/- to Rs.50/-.

3. At present in Mysore the salary wholly exempt from attachment is Rs.20/- and where the salary is Rs.40/- Rs.20/- is exempt and moiety

of it in other cases.. Having regard to the conditions prevailing in Mysore, Government consider that salary up to and inclusive of Rs.50/- and also one-half of the remainder of such salary should be exempt from attachment. It is accordingly proposed to amend Section 60 of the Code of Civil Procedure on the lines of the amended Act IX of 1937 of British India.

4. The Bill empowers Government to exempt any allowance forming part of the emoluments of any public officer or of any servant of a Railway Company or local authority and any subsistence grant or allowance made to any such officer or servant while under suspension.

5. It also allows the attachment of leave allowances of these debtors which was hitherto exempt from attachment.

6. It further provides that the amending legislation shall apply to all suits instituted after a certain date. The existing decrees and suits will not therefore be affected.

---000---

KAR.4.

Handwritten signature
for General Secretary
Cm

Serial
No.

2) D. E. N. Redd

Dm

28/2

188K

(18 Member)

6/28/2

22) What are the further changes proposed to be introduced in this, under the bill now before the Madras Legis. Assembly?

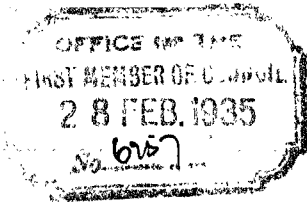
by
28/2

R2

43.

23) Two bills further to amend the C.P.C. were introduced into the Legis. Assembly on 13.2.35 (Days 4 & 5). They relate to the amendment of s. 51 & 44 of the C.P.C. and seek (1) to protect honest debtors of all classes (including industrial workers) from detention in a civil prison and to confine such detention to debtors proved to be recalcitrant or fraudulent and (2) to provide for the enforcement in India of judgments obtained in the United Kingdom & in other parts of Her Majesty's Dominions.

For K. T. Balakrishnan Dyngar.



This is being
dealt with
separately

Bill to amend the C.P.C.

File No.

of 193

General and Revenue
Secretariat

member for the R.A. & the Legis-
cl has given notice of his desire
to place before the R.A. a
Bill to amend the C.P.C. for
abolition of the provisions in
the C.P.C. in the matter of
imprisonment of civil debtors.
The bill is in the R.A. Office.
It is for consideration if the
proposal may not be anticipated
by increasing the amendment
of the law on the lines of
the Bill introduced in Bombay
May 4. Subd for order with
refer to para 22 supra.

A Third Bill for amending
Sec 60 of the C.P.C. on 18.2.1935
Civil Gazette of India Vol 23. 2. 35 (May 11)
and is similar to the Bill under
refer though wider. It provides
(1) that salaries, not exceeding
Rs 100 a month, of all workers
should be totally exempt from
attachment.

(2) that the pay of servants
of Govt., Co. Companies & local
authorities getting more than Rs

(Associated Press)

NEW DELHI, Feb. 18.

The Legislature Assembly met to-
day to hear the Railway Budget and
transact other business.

When the President read a messa-
ge from the Governor-General appoi-
ning Sir Joseph Bore to present the
Railway Budget, all members stood
up, except Mr. Gadgil, while Mr. S.
Prakash, who raised a point of a
propriety of practice in the letter
the President, walked out of the
Chamber. Other Congress members
stood up as usual.

After question time, Sir Hen-
ry Craik introduced a Bill to amend
Section 60 of the Civil Procedure Code
which provides, inter alia, that salar-
ies not exceeding Rs. 100 monthly of a
workers should be totally exempt from
attachment and that the pay of the
servants of the Government, Railway
Companies and local authorities get-
ting more than Rs. 100 monthly should
be exempt to the extent of the first
Rs. 100 and one half of the remain-
der, and that while the attachable
portion of the pay of such servant
should remain as at present liable to
continuous attachment, the period of
attachment should be restricted as
follows, viz., that, after a debtor's pay
had been attached for a total period
of two years (in one or more periods)
no further attachment should be pos-
sible in favour of the same decree or
in favour of any other decree until
12 months have elapsed.

The Bill also proposed to place
leave allowances and salary on duty
in exactly the same position as re-
gards attachment.

The Bill empowers the Governor-
General-in-Council to exempt certain
allowances from attachment, the ob-
ject being to enable him to exempt
certain compensatory allowance grant-
ed for specific purposes.

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No.

Rs 100/- a month should be given
to the extent of the first Rs 100/-
and one half of the remainder
and

(3) And while the attachment
portion of the pay of servants
of Govt, by local authorities
should remain as at present
liable to continuous attachment
the period of attachment should
be restricted.

Order with refce to para 22

supra

Bm
12/3

Serial
No.Ref.- Para 22 of the First Member's Minute above.

25) In regard to the limit of salary of public servants etc exempt from attachment under section 60 of the Civil Procedure Code, the Government of India have very recently introduced in the Legislative Assembly an amending bill published in the Gazette of India of the 23rd February 1935. The proposals in the bill are these:-

1. Salary not exceeding Rs.100 a month of all workers should be totally exempt from attachment;
2. The pay of servants of Government, railway companies and local authorities getting more than Rs.100 a month should be exempt to the extent of the first Rs.100 and half of the remainder;
3. After the debtor's pay has been attached for a total period of 2 years (in one or more periods), no further attachment should be possible in favour of the same decree or in favour of any other decree ^{until} ~~after~~ 12 months have elapsed; and
4. Leave allowances which are now exempt from attachment, if less than salary, are placed in exactly the same position as salary on duty in regard to attachment.

The Governor-General is given power to exempt certain allowances from attachment.

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No.

If approved, we may amend our Civil Procedure Code on these lines instead of on the lines of the existing Indian Civil Procedure Code.

Another bill amending the Civil Procedure Code has been introduced in the Legislative Assembly. [It is published in the Gazette of India of 16th February 1935.]

It seeks to amend section 51 and Order XXI, rules 37 and 40 in regard to imprisonment of judgment debtors. The object is to protect honest ~~honest~~ debtors from detention in the civil prison and to confine such detention to debtors proved to be recalcitrant or fraudulent. The bill provides that no order for execution ^{by} detention ~~of any person~~ ^{in prison} shall ^{be} issued unless the debtor has been given an opportunity of showing cause why he should not be committed to prison and the court is satisfied, for reasons recorded in writing, that the debtor is likely to leave the local limits of the jurisdiction of the court or has fraudulently disposed of his property and that he is able to pay the amount of the decree otherwise than from protected assets. This is on the lines of the provision of law ^{at} present in England. If approved, we may also introduce an amendment to the Civil Procedure Code on the same lines ~~in~~ this Bill.

(Mr. K.T. Bhashyam Aiyangar has applied for permission of the Dewan to introduce a similar amending bill and this is being worked ~~out~~ ^{up} separately)

The third bill introduced in the Legislative Assembly seeks to provide for the execution of decrees passed by courts in the United Kingdom and other

Page 12

Extracts from
pages 27 here
were taken and
incorporated in
a separate file.

This may
be done
1/2/35

General Secretary
First Member

(JMD) (HVR) 19.3.35
20.3.35

1) I think that the provision of the 2 bills referred to above, now before the Indian Legislative Assembly, may be adopted by us also but before doing so it is necessary to consult the High Court on the point.

For original please
see Cts. Mr. Secretary
to the amendments
Sec 572 & 10.

Intd/- K.M.
21/3

30) Draft submitted

Intd/- B.M.
22/3

31) Issue

C.S.
25/3

x x x x x x

32)

Submitted for perusal⁴ the views of the High Court. We may await the passing of the two Bills in the Legislative Assembly as suggested by the High Court.

Intd/- C.S.
6/7/35

First Member)

33)

Intd/- K.V.R.
6/7

x x x x x x

34)

Steps to amend the Civil Procedure Code will be taken after the bills in regard to this matter pending in the Imperial legislature are disposed of. The First Member has approved of this (vide notes above dated 6th July 35)

Intd/- C.S.
13/7/35

Chief Secretary)

35) - "yes" (JMD) K.V.A.

First Member)

36) For perusal

K.V.A.
15/7

37)

K.M.
16/7

x x x x x

② Please see
in Charles Todd's
1936-37 10-36
(Copy placed below)

'This is the Act
referred to by
Sir Charles Todd's'

Reference - First Member's Minute dated the 2nd November 1936. One of the Bills referred to in paragraph 33 viz., amendment of Section 51 of the Code of Civil Procedure to give protection to honest debtors has been passed into Law and is published in the Government of India Gazette Part V kept below. By virtue of this Act Section 51 and order 21, Rule 37 and Rule 40 have been amended. These provisions relate to the arrest of judgment-debtors and the exemption that can be claimed by them under certain circumstances.

The other bill raising the amount of salary for exemption from attachment ~~from attachment~~ does not seem to have been passed into law. In view of orders passed in paras 33 and 37 it is a point for consideration whether we can now proceed with the amending of Section 51 of Civil Procedure Code as in British India and postpone the amendment of Section 60 of Civil Procedure Code.

Intd/- A.S.R.

19/11/36

Chief Secretary)

The ^{amendment} ~~amount~~ may be taken up here for consideration.

Intd/- B.T.K.
24/11

First Member)

Intd/- S.P.R.
1/12

X
X
X
X
X
42)

In the amending bill only 2 Sections are added corresponding to Sections 1 and 2 of the Government of India Act XXI of 1936. 2 other Sections are found regarding amendment of Order 21, Rules 37 and 40 of Civil Procedure Code in the Government of India Act ~~30~~. The High Court of Mysore in consultation with the Rule Committee is competent to amend Rules 37 and 40 by virtue of the powers vested in it under Section 122 of Civil Procedure Code. The legislature therefore need not interfere with this power.

43)

Even in British India the High Courts are competent to pass such rule if they are considered necessary. To secure uniformity of practice in the several High Courts in British India the Government of India had to introduce legislation to amend Rules 37 and 40. There is no such difficulty here.

Intd/- A.S.R./
26/12/

General Secretary)

44)

What about raising the amount out of a Government Servant's pay which should be exempt from attachment? Vide paragraphs 64 and 65.

Intd/- M.V.
29/12

45)

Please see paras 33, 34 and 37. This legislation

legislation is proposed to be taken up after the Bill 11 of the Legislative Assembly is passed into Law. The amendment ordered in paras 64 and 65 relates only to amendment of Section 51 of Civil Procedure Code only and not of Section 60. I have consulted the Chief Secretary on this point.

Intd/- A.S.R.
5-1-37

General Secretary to Govt)

46) The draft amendment with statement of objects and reasons may be approved.

Intd/- M.V.
15/1/1937

Second Member)

47) Intd/- N.M.
18/1/37

Intd/- M.V.
18/4/37

Dewan)

48) Intd/- M.M.I.
20-1-37.

x . x x x x x

49) The amendment to Section 60 can be considered separately in a new file. There are many controversial points regarding that. Permission of His Highness has been obtained to proceed with the amendment of Section 51 on the lines of B.G. Act. The general principles of the amending bill which have to be placed before the next Representative Assembly Meeting is submitted for consideration.

A.S.R.
3.4

First Member)

50) Approved

Intd/- S.P.R.
-/4

B.T.K.
5/4

3 copies of Statement and objects of the Bill relating to the amendment of Sec 51, sent to P.M. on 16/4/37.

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51) ~~The Civil Procedure Code has been accepted~~ By Act IX of 1937, The Central Legislature in British India has amended Section 60. In British India the salary of a ^{public} ~~British~~ Officer or of a servant of a railway company or local authority was still now exempt from attachment to the whole of the salary where the salary did not exceed Rs.40/- monthly and to Rs.40/- monthly where the salary exceeded Rs.40/- and did not exceed Rs.80/-. By the new Act the first Rs.100/- of such officer or servant and one half of the remainder of such officer's or servant's salary and the salary to the extent of the first Rs.100/- and one half of the remainder of such salary of all workers are now exempt from attachment.

52) The amendment further provides that where the whole or any part of the portion of such salary liable to attachment has been under attachment for a period of 24 months, such portion shall be exempt from attachment until the expiry of a further period of 12 months; and, where such attachment is being made in execution of one and the same decree shall be finally exempt from attachment in execution of that decree. The question is whether a similar portion sum can be made exempt from attachment in Mysore. At present the salary exempt from attachment here is Rs.20/-; and where the salary exceeds Rs.20/- and not exceed Rs.40/- Rs.20/- per month is exempt. In place of Rs.20/- we have now

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No.

the Central Legislature has substituted Rs.100/-.

I think the fixing of the salary which should be exempt from attachment upto Rs.100/- in Mysore would be too high. Most of our public servants and servants of railway company or local bodies get a salary of about Rs.40/- to Rs.60/- starting probably from about Rs.25/- . If the salary to be exempted is placed at as high ~~as~~ a figure as Rs.100/- the creditors will not be able to reach most of this class of officials. Most of the debtors in Government and Railway services in Mysore belong to this class of officials and if the creditor is deprived of his remedy in proceeding against their salary, he won't have any other means of recovering the sum. I would, therefore suggest that salary upto and/ of Rs.50/- may be inclusive exempted from attachment, ^{and} also one-half of the ^{re}minder as in British India. The proviso regarding continuous attachment may also be adopted in Mysore. *By the new Act allowances received by such men while absent on duty are also liable for attachment.*

(59) A new clause has been added in the new Act exempting any allowance forming part of the emoluments of any public officer, etc., which the Governor-General in Council may, by notification in the Gazette of India, declare to be exempt from attachment and any subsistence grant or allowance made any such officer or servant while under suspension. This clause may also be adopted here with necessary modifications. ~~By the new Act~~

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~~allowance received by such men when absent on duty are
also liable for attachment.~~

54) A new explanation has been added as Explanation. 2.
2. We may also adopt that explanation here. By Sec.
3, the amendment now made shall not have effect in
respect of any proceedings arising out of any suit
instituted before the first day of June 1937. We may
also adopt a similar procedure substituting the year 1938
for 1937.

55) The Act as passed by the British Indian Legislature
is flagged 'C'. If the amount to be exempted from
attachment is fixed, necessary action will be taken.
A draft of the bill proposed is also submitted for
consideration.

187 members

through

Gen. Secy

kg
7.1

56) The limit here may perhaps be fixed
at Rs 60 pm. An income up to this limit ^{would} ~~may~~
be required to meet the needs of a ~~person~~ ^{household}
of reasonable size - and there is no reason
why Govt. shd. act as bill-collector for
all and sundry creditors of people with low
incomes.

57) Please put up after ^{the} 4/6.
The Leg^{re} Cl meet

58) Re Submitted
cm 27/12/8
8/7

f102
kg 25/6
28.6

File No.

of 193 .

General and Revenue
Secretariat

Serial
No.

DEWAN'S OFFICE

18 AUG. 1937

No. 1314

OFFICE OF THE
PRINCIPAL SECRETARY TO GOVERNMENT

20 JULY 1937

13 5/61

57) be submitted as ordered.
(for members)

to
20-7

(60) The limit may be fixed
at Rs 50 + half the salary as
in British India. It may be
further considered as a result of
discussions in R.A. The bill
may be modified accordingly

for
4/8
two
4/8
over
4.8

61) The Bill is in accordance with the
members' Minute. This is a Council matter.
may be disposed of by circulation
(Gen Secy)

to
10.8
18/8
to
18.8

First Secy. Sec
(Dewan)

62)

63) Ch Secy for far y aid.
19/8
to
19.8

GENERAL S

10 AUG.

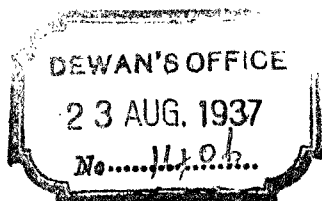
972

Q 1937-38

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

Subject



Bill to amend Section 60 of the Code of Civil
Procedure - 1911.

62) *Circulated to the Members of Council.*

By Order,

Misra

20th August 1937

Chief Secretary to Government.

First Member of Council.

Seen.

63) Second Member of Council.

nu

21/8/37

For favour as final note.

First Member.)

ms
23/8

Submitted to His Highness.

One of the recommendations of the Royal Commission on labour in India was that the wages and salaries of workmen receiving less than Rs.300 per month should be entirely exempt from attachment. The Government of India, in consultation with the local Governments, decided to fix the amount at Rs.100, the rule applying, not only to workmen, but also to public officers and servants of Local Bodies and Railways. Action has accordingly been taken by the Government of India to amend Section 60 of the Code of Civil Procedure relating to the attachment of salary.

(65) It is now proposed to take action on similar lines in Mysore. A Committee was appointed some time back to examine the question of indebtedness of officials in Mysore, and they too have recommended that, in respect of attachment of salary by Civil Courts, the exemption limit may be raised from Rs.20 to Rs.50.

(66) At present, in Mysore, the salary wholly exempt from attachment is Rs.20, and where the salary is Rs.40, Rs.20 is exempt and ^a moiety of it in other cases. Having regard to the conditions prevailing in Mysore, Government consider that salary up to, and inclusive of, Rs.50 and also one-half of the remainder of such salary should be exempt from attachment. It is accordingly proposed to amend Section 60 of the Code of Civil Procedure on the lines of the amended Act IX of 1937 of British India.

(57) The Second Member of Council is agreeable to these proposals and gracious sanction of His Highness is solicited to take further action in the matter.

S. Phajagond

FIRST MEMBER
IN CHARGE OF THE DUTIES OF THE DEWAN.

Bangalore,
27th August 1937.

Record of Cases submitted for the Orders of
His Highness the Maharaja.



Subject.

Bill to amend Section 60 of the Code
of Civil Procedure - 1911.

Chy. day
Mo
31.8.37

116

Order.

(68) ~~KRLW~~
30/8/37

MS
1.9.37

SUBJECT:—

*Bill to amend Section 60 of the
Code of Civil Procedure - 1911*

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (Vide Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Minaul

Chief Secretary to Government.

Through the Secretary to Government,

...General... Department.

nu
119

FIRST MEMBER OF COUNCIL.

S102 1/9

SECOND MEMBER OF COUNCIL.

nu
2/2/37

General Secretary
with compliments.

NOTE.—Contn. sheet.

*(69) necessary steps
will be taken now
by 3/9*

WD 1170—GPB—1,000—24-12-36

MS
2/9
nu
3/9
by
3/9

One of the recommendations of the Royal Commission on Labour in India was that the wages and salaries of workmen receiving less than - Rs.300 per month should be entirely exempt from attachment. The Government of India, in consultation with the local Governments, have come to the conclusion that Rs.100 ^{is} ~~was~~ a more suitable limit than Rs.300 and that the benefit of this recommendation should be given not only to workmen but also to public officers and servants of Local Bodies and Railways. Section 60 of the Code of Civil Procedure relating to attachment of salary, in British India has been suitably amended, ~~by~~ to give effect to this recommendation by Act IX of 1937. It is now proposed to take action on similar lines in Mysore.

At present in Mysore, the salary wholly exempt from attachment is Rs.20 and where the salary is Rs.40, Rs.20 is exempt and a moiety of it in other cases. A committee ^{appointed} some time back to examine the question of indebtedness of officials in Mysore, recommended that in respect of attachment of salary by civil courts, the exemption limit may be raised from Rs.20 to Rs.50. Having regard to the conditions prevailing in Mysore, it is considered that salary up and inclusive of Rs.50 and also one-half of the remainder of such salary should be exempt from attachment. *The Bill is intended to give effect to these proposals.*

by

One of the recommendations of the Royal Commission on Labour in India was that the wages and salaries of workmen receiving less than Rs. 300 per month should be entirely exempt from attachment. The Government of India, in consultation with the local Governments, have come to the conclusion that Rs. 100/- is a more suitable limit than Rs. 300/- and that the benefit of this recommendation should be given not only to workmen but also to public officers and servants of Local -- Bodies and Railways. Section 60 of the Code of Civil Procedure relating to attachment of salary in British India has been suitably amended by Act IX of 1937 to give effect to this recommendation. It is now proposed to take action on similar lines in Mysore.

At present in Mysore, the salary wholly -- exempt from attachment is Rs. 20/- and where the salary is Rs. 40/-, Rs. 20/- is exempt and a moiety of it in other cases. A committee appointed some time back to examine the question of indebtedness of officials in Mysore, recommended that in respect of attachment of salary by civil courts, the exemption limit may be raised from Rs. 20/- to Rs. 50/-. Having regard to the conditions prevailing in Mysore it is considered that salary up to and inclusive of Rs. 50/- and also one-half of the remainder of such salary should be exempt from attachment. The Bill is intended to give effect to these proposals.

For Chit Secretary to Govt

Serial
No.

Two alternative draft Statements of General principles of the Bill are submitted herewith for approval or other orders.

(The app Statement after approval may be sent to R.A. Section for further action)

Indl
C.P.S.
6/9
9/9

73) Please put up a clean draft
10/9
9/9

GENERAL SECRETARY

11 SEP. 1937
15/9

Typing Section kindly
to furnish 2 copies
of the draft

C.P.S.
5/9
10/9

4-50

72) Indl With a clean draft Statement

C.P.S.
10/9
10/9

to draft State memo & General principles & for
approval

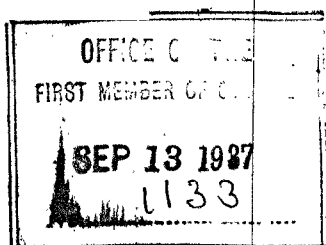
& Gen Secy
&
18 members

74) Indl
13/9
11/9
10/9
13/9

75) S.P.D.
14/9
10/9

70) enclose a copy of the State memo & S.P.D. to
R.A. office for inclusion in the agenda &
for further action. The bill may also be
published now.

10/9
16/9

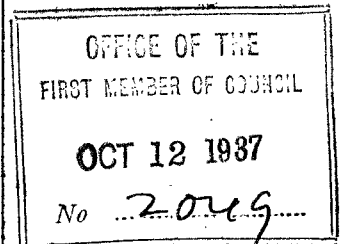


Typing Section kindly
to furnish 4 copies of the Statement
the General principles & memo

NOTE—Contn. Sheet.
also
C.P.S.
10/9

7) Copies of the Statement of General Principles
are put up. ~~There may be objection to~~ They may be sent to
R.A. Section. ~~Respective Sections.~~
R.A. Sec

For
vgs
mtg
76/1
Copies taken
20.9.37



79) The file may be put in R.A. Sec
in the Bill, if approved, published
after R.A. Session is over

5a
24/9/37
81) yes by
24.9

R.A. Sec

81) Submitted with the State memo & Gen principles
(for members)
by
12.10.

82) Jor
12/10
2nd
14/10

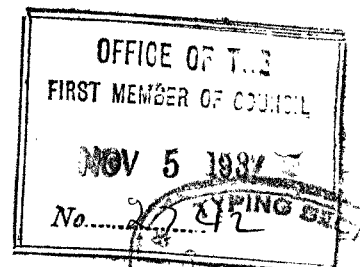
83) The general principles of the
Bill were accepted by the R.A.

84) Subd. for order if the
Bill may be published under
Rule 8 of the L.C. Rules.

5/11
85) Statement of objects & reasons
is kept below:

86) The Bill will be published, if approved under Rule 8.

(for members
&
sewan)



Typing section
for making
4 copies of it.

5/11 MS 5-11
2794-28. 924. 1137. Jor
11/11 12/11 13/11 14/11 15/11 16/11 17/11 18/11 19/11 20/11 21/11 22/11 23/11 24/11 25/11 26/11 27/11 28/11 29/11 30/11

Serial
No.

No 262

Letter of 20/1, from Messrs
John Bell & Sons Limited
suggesting that in the
clause (2) of the amending
Bill labourers may be
defined to include skilled
labourers also.

H. Y.
87 It is not proposed
in the Bill to change
the existing law in
regard to the exemption
from attachment of
the wages of labourers
& domestic servants. They
continue to be wholly
exempt.

88 Labourers are those
who earn their daily bread
by personal manual labour
requiring no art or skill
If they are skilled they
will come under the
second part & get
exemption up to Rs 50/-
89 Anyhow the letter

may perhaps be placed
before the select committee
for consideration.

Sent for orders.

See 90 we have followed the words of
2.1/1 The British Indian Code in
amending Sec 60. The suggestion of
the Mining Board will be considered in
the Select Committee
(18 members)

hp
22.1

91) Yes

✓ 102
24/1
hp/25.1

38

Amended
NOTIFICATION.

No. 2794—L. C., dated Bangalore, 29th November 1937.

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Code of Civil Procedure, 1911, for certain purposes is published for general information with the statement of objects and reasons.

By Order,
A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

**A Bill further to amend the Code of Civil Procedure, 1911,
for certain purposes.**

Whereas it is expedient further to amend the Code of Civil Procedure, 1911, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Regulation may be called the Code (Short title) of Civil Procedure Amendment Regulation, 1937. Act
2. In the proviso to sub-section (1) of Section 60 of Act
Amendment of Section 60, the Code of Civil Procedure, 1911.—
Act Regulation III of 1911.

(a) for clauses (h) and (i), the following clauses shall be substituted, namely:—

- “(h) the wages of labourers and domestic servants, whether payable in money or in kind; and salary, to the extent of the first fifty rupees and one-half the remainder of such salary;
- (i) the salary of any public officer or of any servant of a railway company or local authority to the extent of the first fifty rupees and one-half the remainder of such salary;

Provided that, where the whole or any part of the portion of such salary liable to attachment has been under attachment, whether continuously or intermittently for a total period of

twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months and where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree ;”

(b) for clause (k), the following clause shall be substituted, namely :—

(k) any allowance forming part of the emoluments of any public officer or of any servant of a railway company or local authority which the Government may by Notification in the Official Gazette declare to be exempt from attachment, and any subsistence grant or allowance made to any such officer or servant while under suspension.”

(c) The explanation at the end shall be renumbered as explanation one and to the explanation so renumbered the following words shall be added :—

“ and in the case of salary other than salary of a public officer or a servant of a railway company or local authority the attachable portion thereof is exempt from attachment until it is actually payable, ” and

(d) after the explanation as so renumbered the following explanation shall be added namely :—

“ *Explanation 2.*—In clauses (h) and (i), ‘ Salary ’ means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (k) derived by a person from his employment whether on duty or on leave.”

3. The amendments made by Section 2 shall not have effect in respect of any proceedings arising out of any suit instituted before the first day of June, nineteen hundred and thirty-eight.

Retrospective effect.

Statement of Objects and Reasons.

The Royal Commission on Labour drew attention to the indebtedness prevailing among certain classes of

workers and expressed the view that this was due mainly to the credit enjoyed by them and the facilities afforded to creditors by the law relating to the attachment of salaries. With a view to reducing credit, the Commission recommended that wages and salaries of workmen receiving less than Rs. 300 a month should be entirely exempted from attachment. The Government of India after consulting the Provinces came to the conclusion that Rs. 100 was a more suitable limit than Rs. 300 and they also considered that the recommendations made by the Royal Commission which applied to workmen should apply equally to the public officers, servants of local bodies and railway servants as well. Action was accordingly taken by the Government of India to amend Section 60 of the Code of Civil Procedure relating to the attachment of salary and it has been suitably amended by Act IX of 1937.

2. The Committee appointed to examine the question of indebtedness of officials in Mysore have also recommended that in respect of attachment of salary by civil courts the exemption limit may be raised from Rs. 20 to Rs. 50.

3. At present in Mysore the salary wholly exempt from attachment is Rs. 20 and where the salary is Rs. 40 Rs. 20 is exempt and moiety of it in other cases. Having regard to the conditions prevailing in Mysore, Government consider that salary up to and inclusive of Rs. 50 and also one-half of the remainder of such salary should be exempt from attachment. It is accordingly proposed to amend Section 60 of the Code of Civil Procedure on the lines of the amended Act IX of 1937 of British India.

4. The Bill empowers Government to exempt any allowance forming part of the emoluments of any public officer or of any servant of a railway company or local authority and any subsistence grant or allowance made to any such officer or servant while under suspension.

5. It also allows the attachment of leave allowances of these debtors which was hitherto exempt from attachment.

6. It further provides that the amending legislation shall apply to all suits instituted after a certain date. The existing decree and suits will not therefore be affected.

C. P. C. Am. Bill 1964

Serial
No.

The file is —

L.C. Section with typed copies of the Bill
and Statement of Objects and Reasons
for favour of taking necessary action.

C.R.
26/11

93) Three copies of the Bill taken and file put to Prot. Sec.

C.R.

27.11.37
29

Submitted with a note of 1 book
(8 members)

18-1

95) may be sent to L.C. office
for kindly noting the names
of members of S.C. to
which the Bill was referred

S.C.

L.C. Office

COUNCIL

2/3

96) The names are noted below:—

1. Mr. Misk N. Lakshminarayanan,
2. " M. Venkatesa Iyer,
3. " T. Ramachandra,
4. " K. R. Subbanyachari,
5. " J. Mahomed Iman,
6. " G. Girimaji Rao,
7. " P. J. Browle, &
8. The First Member of Council (Na
manthapuram S. P. Rajah
Jopalachari,

2.3.38, Properly by

3.3

OFFICE OF THE SECRETARY
26 NOV. 1937
REPRESENTATIVE ASSEMBLY
AND
LEGISLATIVE COUNCIL.

L.C. Sec

OF THE SECRETARY

File No.

of 193

General and Revenue
Secretariat

97) The S.C. meeting has been
fixed for 2 P.M. on 12/4/38.

98) Subd. with a draft
notice to the members.

See 4/4/38. Issued no PSS 37-430 5/4.
99) Issued 10/2/4

100) Subd. with a draft report
of the Sub-Committee
with a copy of the Bill
as amended by it.

See 101) After approval copies
will be sent to the members
for their signature

See 1/9/4 102) For their approval & the report
(to members)

by

21/4

OFFICE OF THE
FIRST MEMBER OF COMMISSION

APR 22 1938

75245

102
23/4

25/4

103) Subd. with a draft
forwarding the report 26/4
for approval of the members
who attended.

See 27/4/38

104)

issued
by 27/4

Issued No. P 5988 D 29.4.38

Bill further to amend the Code of Civil
Procedure, 1911.

Select Committee Proceedings.

A meeting of the Select Committee on the
Bill further to amend the Code of Civil Procedure,
1911, for certain purposes, was held in the
Chambers of the First Member of Council commencing
at 3 p.m., on *Tuesday, 12th April 1938.*

The following members were present:--

Rajamantrapravina S.P. Rajagopalachari,
First Member of Council (Chairman)

Mr. G. Girimaji Rao.
Mr. K.R. Subbanna Char.
Mr. Mirle N. Lakshminaranappa.
Mr. T. Ramachandra.
~~Mr. D.S. Pattaswami.~~
Mr. J. Mahomed Imam.

Mr. Mirle Lakshminaranappa suggested that
in the preamble itself the object of the amend-
ment might be mentioned instead of stating "for
the purposes hereinafter appearing".

The Chairman observed that if the law was
amended for any one purpose, the suggestion would
be feasible, but if the purposes could not be
briefly stated, the expression "for the purposes
hereinafter mentioned" had to be used. That was
the usual way of drafting bills for the past seve-
ral years.

Mr. Ramachanara enquired whether agricultural
labourers also would come within the scope of the
proposed law. The Chairman ~~explained~~ observed
that ~~what was proposed was that the law should be amended~~

clauses (4) & (9)

the phraseology "wages of labourers" existed in the main Act in sub-section (k) and what was proposed was to bring the entire sub-section under clause (h). This had not been inserted newly. So whatever meaning it had all these years, it would continue to have.

Mr. Lakshminaranappa was of the opinion that the term "labourers" would apply to all kinds of labourers.

Mr. Girimaji Rao suggested that the limit of exemption be raised to Rs. 100 as in British India. Mr. Mahomed Imam, on the other hand, said that the limit proposed in the bill was in itself high and should be reduced to Rs. 25 or 30 for the reasons given by him in the last session of the L.C. The Chairman observed that all these points had been fully discussed in the B.A., as well as in the L.C. and ^{Govt came} ~~had to come~~ to a compromise between the two extreme views. If the exemption limit ^{was} ~~had been~~ raised to Rs. 100 as suggested, practically all Government officials would be exempt. That the Government thought would be ~~unfair~~ unfair to the creditors. At the same time some relief was considered necessary to poorer officials. For these reasons the limit was fixed at Rs. 50 as a compromise.

At this stage, the Chairman placed before ^{for consideration} the House/the request of Mr. Crowle, one of the members of the Committee to add the words "skilled and unskilled" before the word "labourers" in clause (h) with a view to extend the relief to ~~unskilled~~ skilled labourers also. This point was con-

considered at great length and the House came to the conclusion that the case of skilled labourers would come within the scope of the latter half of clause (h) and as such, there was no need to ~~amendments~~ make the addition suggested by Mr. Crowle.

Clause 3.

Mr. Girimaji Rao suggested that retrospective effect should be given to the amendments now proposed. Mr. Ramachandra said that while he was not against giving retrospective effect, he would suggest that the limit of exemption in such cases be reduced to Rs. 30. The Chairman observed that such a course would lead to various complications and as such the suggestion could not be accepted.

The Committee recommended that for the word "June", the word "July" might be substituted.

The House adjourned at 4.10 p.m.

45
Bill further to amend the Code of Civil Procedure, 1911, for certain purposes.

please refer
to
para 102

We the members of the Select~~ed~~ Committee appointed to consider the Bill further to amend the Code of Civil Procedure, 1911, have considered the Bill and have now the honour to submit this our Report:-

The only change that we recommend is that for June in clause 3, the word "July" may be substituted.

As the Bill has not undergone any material alteration, it need not be republished.

SP2
23/4

67

Serial
No.

106) S.C.
The Report has been received from all the members duly signed.

106) Subd for orders if the copies of the Bill as amended may be sent to L.C. office

SC
9/5

by
9.5

107) To L.C. office with 3 copies of the Report & a copy of the Bill as amended

SC
9/5

108) Three copies of the Report and a copy of the amended Bill taken.

SC
10/5/38 9.5

Prot. B. 13.2)

109) The S.C. Report has been published and will have to be presented at the meeting of the L.C.

110) The following motions may, if approved, be included in the agenda
(a) motion that the S.C. Report & the Bill as amended

OFFICE OF THE SECRETARY
9 MAY 1938
LEGISLATIVE ASSEMBLY
AND
EXECUTIVE COUNCIL

L.C. Sec.

Memd No.
3714-L.C.
D. 10.5.38

be taken into consideration.

(the motion that the Bill
as amended be passed.
Subd. for orders.

59
6/6. (18 member)

by
8-6

OFFICE OF THE
FIRST MEMBER OF COUNCIL

JUN 9 1938

No. 9256

111 1/102
9/6

6 9/6
by 10-6

To 114)
L. e. Officer for note & return.

59
11/6
113) noted and put to Prot. B?

11/6
114) The Bill was passed
at this session.

115) Subd. with a D.F.R.
for formalizing the Bill
into law.

59
24/6/38 116) Please put up a typed copy
by 21-6

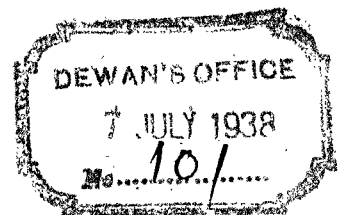
117) Typed D.F.R. subd

59
24/6 (18 member)

by
2-7

Dewan 118) 1/102

3/7 6 by 5-7



43
2/7/38

As finally passed

[Portions omitted are enclosed in square brackets and additions are indicated in italics.]

**A Bill further to amend the Code of Civil Procedure, 1911,
for certain purposes.**

(As amended by the Select Committee)

Whereas it is expedient further to amend the Code of Civil Procedure, 1911, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Code (Short title) of Civil Procedure Amendment Act, 1938.

2. In the proviso to sub-section (1) of Section 60 of Amendment of Section 60, the Code of Civil Procedure, Act III of 1911. 1911.—

(a) for clauses (h) and (i), the following clauses shall be substituted, namely:—

“(h) the wages of labourers and domestic servants, whether payable in money or in kind; and salary, to the extent of the first fifty rupees and one-half the remainder of such salary;

(i) the salary of any public officer or of any servant of a railway company or local authority to the extent of the first fifty rupees and one-half the remainder of such salary.

Provided that, where the whole or any part of the portion of such salary liable to attachment has been under attachment, whether continuously or intermittently for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months and where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree;”

(b) for clause (k), the following clause shall be substituted, namely:—

(k) any allowance forming part of the emoluments of any public officer or of any servant of a railway company or local authority which the Government may by Notification in the Official Gazette declare to be exempt from attachment, and any subsistence grant or allowance made to any such officer or servant while under suspension.”

(c) The explanation at the end shall be renumbered as explanation one and to the explanation so renumbered the following words shall be added :—

“and in the case of salary other than salary of a public officer or a servant of a railway company or local authority the attachable portion thereof is exempt from attachment until it is actually payable,” and

(d) after the explanation as so renumbered the following explanation shall be added namely :—

“*Explanation 2.*—In clauses (h) and (i), ‘Salary’ means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (k) derived by a person from his employment whether on duty or on leave.”

3. The amendments made by Section 2 shall not have effect in respect of any proceedings arising out of any suit instituted before the first day of ~~June~~ *July* nineteen hundred and thirty-eight.

Retrospective effect.

Final Note by the First Member of Council.

Subject.—

Law
Promulgation into^{of} the Code of Civil
Procedure (Amendment) Act, 1938.

8 (120) On the 30th August 1937 His Highness was graciously
pleased to accord^x sanction to the introduction of the Bill to
amend Section 60 of the Code of Civil Procedure. The Bill was
introduced in the Legislative Council in January 1938 and refer-
red to a Select^x Committee. The Select Committee did not^x pro-
pose any change in the bill. The bill was finally passed by
the Legislative Council at its recent Session and I solicit the
gracious sanction of His Highness to promulgate the Bill into^x
Law.

S. Majasora

MEMBER OF COUNCIL.

Bangalore,
4th July 1938.

Submitted to His Highness.

121 I submit herewith a Final Note by the First
Member of Council on the subject of Promulgation into law
of the Code of Civil Procedure (Amendment) Act, 1938,

for His Highness' gracious approval.

Bangalore,

7th July 1938.

Mirza M. Ismail
Dewan.

Record of Cases submitted for the Orders of
His Highness the Maharaja.



Subject.

Promulgation into law of the Code of
Civil Procedure (Amendment) Act, 1938.

Order.

KRU

8/7/38

lrm
11-7

SUBJECT:—

Promulgation into law of the Code of Civil Procedure (Amendment) Act, 1938

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

ms
Circulated to Members of Council for perusal of His Highness' orders before / after issue of orders. (Vide Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

(Tr) Demasam
Chief Secretary to Government.

Through the Secretary to Government,

.....Department.

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FIRST MEMBER OF COUNCIL.

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SECOND MEMBER OF COUNCIL.

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C. P. C. Amendment Act

General and Revenue
Secretariat

File No.

8 of 1938

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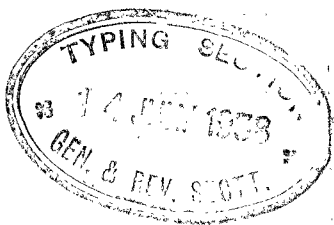
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the publication of Act XIII of 1938

THE MYSORE REPRESENTATIVE ASSEMBLY.

DASARA SESSION—OCTOBER 1937.

STATEMENT OF GOVERNMENT BUSINESS TO BE PLACED BEFORE THE REPRESENTATIVE ASSEMBLY.

I. Statement of General Principles of the Bill to amend the Code of Civil Procedure.

One of the recommendations of the Royal Commission on Labour in India was that the wages and salaries of workmen receiving less than Rs. 300 per month should be entirely exempt from attachment. The Government of India, in consultation with the Local Governments, have come to the conclusion that Rs. 100 is a more suitable limit than Rs. 300 and that the benefit of this recommendation should be given not only to workmen but also to public officers and servants of Local Bodies and Railways. Section 60 of the Code of Civil Procedure relating to attachment of salary in British India has been suitably amended by Act IX of 1937 to give effect to this recommendation. It is now proposed to take action on similar lines in Mysore.

At present in Mysore, the salary wholly exempt from attachment is Rs. 20 and where the salary is Rs. 40, Rs. 20 is exempt and a moiety of it in other cases. A committee appointed some time back to examine the question of indebtedness of officials in Mysore, recommended that in respect of attachment of salary by Civil Courts, the exemption limit may be raised from Rs. 20 to Rs. 50. Having regard to the conditions prevailing in Mysore it is considered that salary up to and inclusive of Rs. 50 and also one-half of the remainder of such salary should be exempt from attachment. The Bill is intended to give effect to these proposals.

II. Statement of General Principles of the Bill to amend the Mysore Village Panchayet Regulation.

Before the introduction of the Village Panchayet Regulation, the Revenue Officers were assessing and collecting the Mohatarfa taxes and crediting them to the funds of the District Boards. With the introduction of the Village Panchayet Regulation from 1st February 1927, these taxes were replaced by Panchayet taxes and the duty of assessing and collecting them devolved on the Panchayets. Although under the Regulation, Village Panchayets are invested with sufficient powers to assess and collect the taxes, experience has shown that the Panchayet Chairmen are generally negligent or unwilling to shoulder the unpopular duty of collection, and even in fixing the assessment, they have not been exercising sufficient discretion. In some Village Panchayets no action has been taken even to prepare the assessment lists.

Since the year 1930, Government have passed several orders enabling the Village Panchayets to collect the arrears of taxes by entrusting the work to village officers and by authorising the Deputy Commissioners to employ Special Revenue Inspectors for the purpose. But these measures too have led to no material improvement. The arrears of Village Panchayet taxes have gone on increasing from year to year until at the end of 1935-36, they amounted to Rs. 43,12,205 on account of obligatory taxes alone. Government consider that in order to ensure prompt collection of Village Panchayet taxes and thereby provide sufficient funds for undertaking works of permanent utility, the old system under which the revenue officers were entirely responsible for the assessment and collection of the Mohatarfa taxes, should be revived.

The question was referred to the Standing Committee for Local Self-Government and the Departments of Medicine and Health at their meeting held on 1st

May 1937, and it was their general opinion that the amendment of the Regulation in the manner proposed is very necessary in the interests of Panchayet Administration in the State. It was also represented at the last session of the Representative Assembly in June 1937 that it would be desirable to revert to the old system of collection.

The proposed amendment is intended to give effect to this change of system. According to the revised procedure, the Amildar will be responsible for assessing the rates of obligatory taxes to be levied and for the preparation of the assessment list in respect of each Panchayet in the Taluk. The Panchayets, however, will continue to have the power of levying optional taxes, but the collection of these taxes also will be entrusted to the Amildar. The period of limitation for the recovery of the Village Panchayet dues is also intended to be enhanced from three to six years.

III. Statement of General Principles of the Bill to amend the Limitation Regulation.

In the judgment of the High Court in *Motiram Lala vs. Deputy Commissioner and Muzrai Officer, Mysore District* (40 Mys. H. C. R. 330), it was suggested that Section 29 of the Limitation Regulation might be amended as in British India so as to make most of the exceptions and qualifications to Section 3 of the Limitation Regulation apply, not only to the periods of limitation prescribed by that Regulation, but to periods of limitation prescribed by other Regulations. Before the amendment in British India in 1922, Section 29 was the same as here. It provided that nothing in the Limitation Act should affect or alter any period of Limitation specially prescribed for any suit, appeal or application by any special or local law. The interpretation of this provision was the subject of conflicting decisions by High Courts, some holding that the application of the general provisions of the Limitation Act would be to affect the period of limitation prescribed under the special law and others holding a contrary view. To remove this conflict, Section 29 of the British Indian Act was amended by Act X of 1922. As suggested by the High Court in the judgment cited above, it is proposed to amend Section 29 of the Mysore Regulation as in British India. While amending Section 29 opportunity is taken, so far as is suitable, to bring the Mysore Regulation into line with the Act in British India, which has undergone some substantial changes by amending Acts in 1919, 1920, 1922 and 1929.

The principles of the most important of such amendments are indicated below :—

(i) Recent decisions have taken the view that whenever property is conveyed to a religious or charitable institution, it is not held by the manager thereof as trustee. He holds it only as manager, and the property does not vest in him in trust, with the result that suits against him in respect of the property of endowments of this nature are not governed by Section 10 of the Limitation Regulation. Section 10 is therefore amended so as to put property of Hindu and Mahomedan religious endowments in respect of the law of limitation on the same footing as other trust property which definitely vests in a trustee.

(ii) The provisions of Article 133 relating to movable property are enacted as Article 48A with the period of limitation curtailed to three years. Specific provision is made for the case of a suit to set aside a sale of movable property comprised in a religious or charitable endowment where the plaintiff is merely interested in the endowment as a beneficiary, but is not entitled to possession. The date when the plaintiff obtains knowledge of the sale he seeks to attack, is the most suitable date from which limitation should run. If limitation runs from the date of purchase or even from the date of delivery of possession, a dishonest trustee and a collusive transferee might conceal the fact until the period of limitation expired. With this change it is considered that a period of three years in the case of movable property is quite sufficient.

(iii) As it is not definite what period of limitation should govern a suit to recover money due on a mortgage by the deposit of title deeds, provision is now made therefor by fixing a period of 12 years in such cases.

(iv) It is proposed to bring religious and charitable endowments within the scope of Articles 133 and 134. Suits by persons interested in an endowment to set

aside alienations made by the manager are provided for. Provision is also made for the case of suits by the manager himself attacking transfers made by a predecessor for valuable consideration and claiming to recover the property. It is proposed to take as the starting point the death, resignation or removal of the transferring manager and to adopt as the period of limitation twelve years, which is the normal period in similar cases.

(v) Reading Article 158 along with paragraph 10, second schedule, Civil Procedure Code it is desirable to make it definite that time will run from the day on which the parties receive notice that the award has been filed in court.

(vi) Application to set aside a sale in execution of a decree on the ground of fraud in publishing or conducting the sale is also included under Article 166.

(vii) The time now allowed for bringing the legal representative of a deceased party on record is six months. This is considered too long and it is proposed to reduce it to ninety days. This will help in reducing the delay in the disposal of suits. The reduction will not affect parties who are diligent. The apprehension that the change will prove a hardship to parties who find it difficult to ascertain the address of the legal representatives has not much force. What is required is that an application mentioning the legal representative should be filed in court. Delay in the service of summons owing to difficulty in ascertaining the address is sufficiently protected under the Civil Procedure Code.

IV. Statement of General Principles of the Bill to amend the transfer of Property Regulation.

The Transfer of Property Regulation in Mysore was passed in 1918 on the lines of the British Indian Act of 1882 and all amendments passed in British India up to 1918 were taken into consideration. The British Indian Act has subsequently been amended, more particularly by Act XX of 1929 which made substantial changes in many sections and set at rest points on which there had been conflicting decisions. It is considered desirable to adopt these amendments as it is also convenient to have a law in this respect on the same lines as in British India with suitable variations dictated by local conditions. A Bill has accordingly been drafted.

In the Bill it has been sought to remedy only defects which have led to inconvenience or anomalous results and to incorporate new principles of importance which have been judicially recognised.

Special attention is drawn to the following principles included in the Bill :—

1. Provision is made so that registration will amount to notice of the document registered.

2. Constructive notice to an agent of a fact material to the course of business in which the agent is engaged will be notice of that fact to the principal. The agent must not have fraudulently concealed the fact from his principal.

3. The validity of transfers in favour of a class of persons when some members of that class are unable to take possession, is recognised so that they may ensure to the benefit of those members of the class who are capable of taking possession.

4. The doctrine of part performance is recognised. At the same time provision is made for the purpose of securing that the law of registration is not evaded.

5. In a mortgage by conditional sale, the condition must be embodied in the mortgage deed ;

6. Provision is made to require a mortgagee to transfer, when so required, the mortgage debt to a third person named by the mortgagor ;

7. It is made clear that the mortgagor has a right to inspect and take copies of the documents of title relating to the mortgaged property which are in the possession of the mortgagee ;

8. It is also made clear that the mortgagor has the option to redeem several mortgages to the same mortgagee separately or simultaneously as he may think fit ;

9. There is no express provision in the Regulation allowing a mortgagee to make necessary improvements to the mortgaged property. This is now provided for ;

10. Statutory recognition is given to the mortgagor's power to lease in such a way as to bind the mortgagee subject to certain safeguards;

11. The remedy of foreclosure is abolished in the case of all mortgages except mortgages by conditional sale or anomalous mortgages providing expressly for foreclosure;

12. The mortgagee is obliged to enforce several mortgages by the same mortgagor simultaneously in the absence of contract to the contrary;

13. Provision is made for the Court to stay a suit for enforcing a personal remedy against the mortgagor till the mortgagee has exhausted his remedies against the mortgaged property;

14. The principle of subrogation is extended so that all persons who have an interest in the mortgaged property other than the mortgagor will be entitled to be substituted in the place of the creditor who is paid off;

15. The law of merger is modified so that the creditor may have the benefit of keeping alive against subsequent incumbrances, his own incumbrance as well as those which he has paid off

16. Leases are to be required to be executed by both parties.

V. The Transfer of Property (Amendment) Supplementary Bill.

STATEMENT OF GENERAL PRINCIPLES.

Consequent on the amendments proposed to the Transfer of Property Regulation, it has become necessary to introduce amendments to (1) the Specific Relief Act, (2) the Registration Regulation, (3) the Succession Act, (4) the Limitation Regulation and (5) the Code of Civil Procedure.

Amendments to the Specific Relief Act give effect to the principle of part performance embodied in the new section 53 A of the Transfer of Property Regulation.

The Registration Regulation is amended so that assignments of decrees, orders and awards, relating to immovable property may be always registered. Courts will be empowered to admit unregistered documents in evidence in giving effect to the doctrine of part performance.

The Succession Act is amended in conformity with the amendments to sections 15 to 18 of the Transfer of Property Regulation.

Amendment to the Limitation Regulation providing for a period of limitation governing suits to recover money due on a mortgage by the deposit of title deeds is included in the Bill to amend the Limitation Regulation.

The amendments to the Code of Civil Procedure relate to Order XXXIV of the First Schedule thereto and the forms in Appendix D. These may, in due course, be made by the High Court itself under its rule-making power, and they are not therefore included in the Bill.

BANGALORE, }
2nd October 1937. }

A. SUNDARARAJA RAO
Secretary,
Mysore Representative Assembly.

ಮೈಸೂರು ಪ್ರಜಾಪ್ರತಿನಿಧಿ ಸಭೆ.

ದಸರಾ ಅಧಿವೇಶನ—ಅಕ್ಟೋಬರ್ 1937.

ಮೈಸೂರು ಪ್ರಜಾಪ್ರತಿನಿಧಿ ಸಭೆಯ ಸದಸ್ಯರ ಅಭಿಪ್ರಾಯಕ್ಕಾಗಿ ಒಪ್ಪಿಸಬೇಕಾದ
ಸರ್ಕಾರಿ ಕಾರ್ಯಕಲಾಪಗಳ ವಿವರ.

I. ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡನ್ನು ತಿದ್ದುಪಾಟು ಮಾಡುವುದಕ್ಕಾಗಿ ರಚಿಸಿರುವ
ಮಸೂದಾಕಾನೂನಿನ ಸಾಮಾನ್ಯ ನಿಯಮಗಳ ವಿವರಣೆ.

ಇಂಡಿಯಾ ದೇಶದಲ್ಲಿ ಕಾರ್ಪೊರೇಷನ್ ಕೆಲಸಗಾರರಿಗೆ ಸಂಬಂಧಪಟ್ಟ ವಿಷಯಗಳನ್ನು ಪರಿಶೀಲಿಸುವುದಕ್ಕಾಗಿ
“ರಾಯಲ್ ಕಮಿಷನ್” ಎಂಬ ಒಂದು ಸಮಿತಿಯು ನೇಮಕವಾಗಿದ್ದು ಸರಿಯಷ್ಟೆ. ಆ ಸಮಿತಿಯವರು
ಅವುಗಳ ಸಂಬಂಧದಲ್ಲಿ ಕೆಲವು ಸಲಹೆಗಳನ್ನು ಮಾಡಿದರು. ಮಾಹೆಯಾನಾ 300 ರೂಪಾಯಿಗಳಿಗಿಂತ
ಕಡಮೆಯಾದ ಕೂಲಿಯ ಮೊಬಲಗುಗಳನ್ನು ಅಥವಾ ಸಂಬಳಗಳನ್ನು ಪಡೆಯುತ್ತಿರುವ ಕೆಲಸಗಾರರ ವಿಷಯದಲ್ಲಿ
ಅವರ ಕೂಲಿ ಮೊಬಲಗಿನ ಅಥವಾ ಸಂಬಳದ ಯಾವ ಭಾಗವನ್ನೂ, ಸಿವಿಲ್ ಕೋರ್ಟು ಡಿಕ್ರಿ ಮೊಬಲಗಿ
ಗಾಗಿ ಜಪ್ತಿ ಮಾಡಿ ವಸೂಲ್ಯಾಡಿಕೊಳ್ಳದಂತೆ ಪೂರ್ತಿಯಾಗಿ ವಿನಾಯಿತಿಯನ್ನು ಕೊಡಬೇಕೆಂಬುದು ಆ ಸಮಿತಿ
ಯವರು ಮಾಡಿರತಕ್ಕ ಸಲಹೆಗಳ ಪೈಕಿ ಒಂದು. ಇಂಡಿಯಾ ಸರ್ಕಾರದವರು ಈ ಸಲಹೆಯ ವಿಷಯದಲ್ಲಿ ನಾನಾ
ಪ್ರಾಂತಗಳ ಸರ್ಕಾರಗಳವರೊಡನೆ ಪರ್ಯಾಲೋಚನೆ ನಡೆಯಿಸಿದರು. ಕೋರ್ಟಿನಲ್ಲಿ ಡಿಕ್ರಿ ಅದ
ಮೊಬಲಗನ್ನು ಕೂಲಿ ಹಣದ ಅಥವಾ ಸಂಬಳದ ಜಪ್ತಿಯಿಂದ ವಸೂಲ್ಯಾಡಿಕೊಳ್ಳದಂತೆ ವಿನಾಯಿತಿ
ಕೊಡತಕ್ಕ ವಿಷಯದಲ್ಲಿ ಆ ಸಮಿತಿಯವರು ಸೂಚಿಸಿರುವಂತೆ 300 ರೂಪಾಯಿಗಳ ಪರಿಮಿತಿಯನ್ನು
ನುಸರಿಸುವುದಕ್ಕಿಂತಲೂ, 100 ರೂಪಾಯಿಗಳ ಪರಿಮಿತಿಯನ್ನು ಕೊಳ್ಳುವುದು ಹೆಚ್ಚು ಸೂಕ್ತವಾದ್ದು
ದೆಂದು ಇಂಡಿಯಾ ಸರ್ಕಾರದವರು ಹಾಗೆ ನಾನಾ ಪ್ರಾಂತಗಳ ಸರ್ಕಾರಗಳೊಡನೆ ಆಲೋಚಿಸಿದನಂತರ ತೀರ್ಮಾ
ನಿಸಿದರು. ಅಲ್ಲದೆ, ಈ ಸಲಹೆಯ ಮೇರೆಗೆ ಕೊಡತಕ್ಕ ವಿನಾಯಿತಿಯು ಕಾರ್ಪೊರೇಷನ್ ಕೆಲಸಗಾರರುಗಳಿಗೆ
ಮಾತ್ರವೇ ಅಲ್ಲದೆ ಸರ್ಕಾರಿ ನೌಕರಿಗಳಲ್ಲಿರತಕ್ಕವರಿಗೂ ಮತ್ತು ಮುನಿಸಿಪಾಲಿಟಿಗಳಲ್ಲಿ ಮುಂತಾದ ಸ್ಥಳೀಯ ಸಂಸ್ಥೆ
ಗಳ ಮತ್ತು ರೈಲ್ವೆಗಳ ನೌಕರಿಗಳಲ್ಲಿರತಕ್ಕವರಿಗೂ ಅನ್ವಯಿಸುವಂತೆ ಮಾಡಬೇಕೆಂದೂ ಇಂಡಿಯಾ ಸರ್ಕಾರದವರು
ತೀರ್ಮಾನಿಸಿದರು. ಸಂಬಳಗಳಿಂದ ಡಿಕ್ರಿ ಮೊಬಲಗಿಗಾಗಿ ಹಣವನ್ನು ಹಿಡಿದುಕೊಂಡು ಜಪ್ತಿ ಮಾಡಿ ವಸೂಲ್ಯಾಡಿಕೊ
ಳ್ಳುವುದರ ಸಂಬಂಧದಲ್ಲಿ ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನ 60ನೆಯ ಪ್ರಕರಣವು ಏರ್ಪಟ್ಟಿದೆಯಷ್ಟೆ. ಮೇಲೆ ಕಂಡ
ತೀರ್ಮಾನವನ್ನು ಜಾರಿಗೆ ತರುವುದಕ್ಕಾಗಿ, 1937ನೆಯ ಇಸವಿಯ IXನೆಯ ನಂಬರಿನ ಆಕ್ಟಿನ ಮೂಲಕ ಆ
ಪ್ರಕರಣದಲ್ಲಿ ಇಂಡಿಯಾ ಸರ್ಕಾರದವರು ತಕ್ಕ ಬದಲಾವಣೆಯನ್ನು ಮಾಡಿ ಅದನ್ನು ತಿದ್ದುಪಾಟುಮಾಡಿರುತ್ತಾರೆ.
ಇದೇ ಕ್ರಮವನ್ನು ನುಸರಿಸಿ ಮೈಸೂರು ದೇಶದಲ್ಲಿಯೂ ಸಹ, ಕಾನೂನಿನಲ್ಲಿ ತಕ್ಕ ಬದಲಾವಣೆಯನ್ನು ಮಾಡಬೇಕೆಂದು
ಈಗ ಉದ್ದೇಶಿಸಲಾಗಿದೆ.

ಈಗ ಮೈಸೂರು ದೇಶದಲ್ಲಿ, ಮಾಹೆಯಾನಾ 20 ರೂಪಾಯಿಗಳ ಸಂಬಳ ಪಡೆಯತಕ್ಕವರ ವಿಷಯದಲ್ಲಿ
ಅವರ ಸಂಬಳದಿಂದ ಡಿಕ್ರಿ ಮೊಬಲಗಿಗಾಗಿ ಯಾವ ಹಣವನ್ನೂ ಜಪ್ತಿಮಾಡಲು ಅವಕಾಶವಿಲ್ಲ. ಮಾಹೆಯಾನಾ 40
ರೂಪಾಯಿಗಳ ಸಂಬಳ ಪಡೆಯುತ್ತಿರುವವರ ವಿಚಾರದಲ್ಲಿ ಅವರ ಸಂಬಳದ ಪೈಕಿ 20 ರೂಪಾಯಿಗಳನ್ನು ಬಿಟ್ಟು
ಬಿಟ್ಟು, ಉಳಿದ ಮೊಬಲಗನ್ನು ಹಿಡಿದುಕೊಳ್ಳುವುದಕ್ಕೆ ಅವಕಾಶವಿದೆ. ಮತ್ತು 40 ರೂಪಾಯಿಗಳಿಗಿಂತ ಹೆಚ್ಚಿಗೆ ಸಂಬಳ
ಪಡೆಯುತ್ತಿರುವವರ ವಿಷಯದಲ್ಲಿ ಅವರ ಸಂಬಳದಲ್ಲಿ ಅರ್ಧಭಾಗವನ್ನು ಬಿಟ್ಟು ಬಿಟ್ಟು ಉಳಿದ ಅರ್ಧಭಾಗವನ್ನು ಹಿಡಿ
ದುಕೊಳ್ಳುವುದಕ್ಕೆ ಅವಕಾಶವಿದೆ. ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿರುವ ನೌಕರರುಗಳು ಎಷ್ಟರಮಟ್ಟಿಗೆ ಸಾಲಗಳನ್ನು ಮಾಡಿ
ಕೊಂಡಿರುತ್ತಾರೆಂಬುದೇ ಮುಂತಾದ ವಿಚಾರಗಳನ್ನು ಕುರಿತು ಪರಿಶೀಲನೆ ಮಾಡುವುದಕ್ಕಾಗಿ ಕೆಲವು ವರ್ಷಗಳ ಹಿಂದೆ
ಒಂದು ಸಮಿತಿಯನ್ನು ನೇಮಕಮಾಡಲಾಗಿದ್ದಿತಷ್ಟೆ. ಆ ಸಮಿತಿಯವರು, ಸಿವಿಲ್ ಕೋರ್ಟು ಡಿಕ್ರಿಗಳ ಸಂಬಂಧದಲ್ಲಿ
ಜಪ್ತಿಯಾಗದಂತೆ ವಿನಾಯಿತಿ ಪಡೆದಿರುವ ಸಂಬಳದ ಪರಿಮಿತಿಯನ್ನು 20 ರೂಪಾಯಿಗಳಿಂದ 50 ರೂಪಾಯಿಗಳಿಗೆ
ಹೆಚ್ಚಿಸಬೇಕೆಂದು ಸಲಹೆಮಾಡಿರುತ್ತಾರೆ. ಮೈಸೂರು ದೇಶದಲ್ಲಿ ಈಗಿರತಕ್ಕ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ, ಮಾಹೆಯಾನಾ 50
ರೂಪಾಯಿಗಳ ಮತ್ತು ಅದಕ್ಕಿಂತ ಕಡಮೆ ಸಂಬಳಗಳನ್ನು ಪಡೆಯುವವರ ವಿಷಯದಲ್ಲಿ ಅವರ ಸಂಬಳದ ಯಾವ ಭಾಗ
ವನ್ನೂ ಸಿವಿಲ್ ಕೋರ್ಟುಗಳ ಡಿಕ್ರಿ ಹಣಕ್ಕಾಗಿ ಜಪ್ತಿಮಾಡಿ ಹಿಡಿದುಕೊಳ್ಳದಂತೆ ಪೂರ್ತಿಯಾಗಿ ವಿನಾಯಿತಿಯನ್ನು
ಕೊಡುವುದೂ ಮತ್ತು ಉಳಿದವರ ವಿಷಯದಲ್ಲಿ ಅವರ ಸಂಬಳದಲ್ಲಿ 50 ರೂಪಾಯಿಗಳ ಮೊತ್ತವೂ ಮತ್ತು
ಅದಕ್ಕಿಂತ ಹೆಚ್ಚಾಗಿರುವ ಮೊತ್ತದಲ್ಲಿ ಅರ್ಧಭಾಗದ ಮೊತ್ತವೂ ಜಪ್ತಿಯಾಗಕೂಡದೆಂಬ ವಿನಾಯಿತಿಗೆ ಅವಕಾಶವಿರು
ವಂತೆ ಏರ್ಪಾಡು ಮಾಡುವುದೂ ಸೂಕ್ತವಾಗಿದೆಯೆಂದು ಭಾವಿಸಲಾಗಿದೆ. ಈ ಸಲಹೆಗಳನ್ನು ಆಚರಣೆಗೆ ತರುವು
ದಕ್ಕಾಗಿ ಈ ಮಸೂದಾಕಾನೂನನ್ನು ಏರ್ಪಡಿಸಲಾಗಿದೆ.

II. ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳ ರೆಗ್ಯುಲೇಷನನ್ನು ತಿದ್ದುಪಾಟು ಮಾಡುವುದಕ್ಕಾಗಿ ಏರ್ಪಟ್ಟ ಮಸೂದಾ ಕಾನೂನಿನ ಸಾಮಾನ್ಯ ನಿಯಮಗಳ ವಿವರಣೆ.

ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳ ರೆಗ್ಯುಲೇಷನನ್ನು 1927ನೆಯ ಇಸವಿ ಫೆಬ್ರವರಿ ಒಂದನೆಯ ತಾರೀಖಿನ ಲಾಗಾಯಿತು ಜಾರಿಗೆ ತರಲಾಗಿದೆಯಷ್ಟೆ. ಈ ರೆಗ್ಯುಲೇಷನನ್ನು ಜಾರಿಗೆ ತರುವುದಕ್ಕೆ ಮುಂಚಿತವಾಗಿ ರೆವೆನ್ಯೂ ಅಧಿಕಾರಿಗಳೇ ರೈತರಿಂದ ಎಷ್ಟು ಮೊಹತರ್ಫಾ ತೆರಿಗೆಯು ವಸೂಲಾಗಬೇಕೆಂಬುದನ್ನು ಗೊತ್ತುಮಾಡುತ್ತಿದ್ದರು. ಅಲ್ಲದೆ ಅವರೇ ಆ ಬಳಿಕ ಅದನ್ನು ವಸೂಲುಮಾಡಿ ಡಿಸ್ಟ್ರಿಕ್ಟ್ ಬೋರ್ಡಿನ ಲೆಕ್ಕಕ್ಕೆ ಜಮಾ ಮಾಡುತ್ತಲೂ ಇದ್ದರು. ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳ ರೆಗ್ಯುಲೇಷನು ಜಾರಿಗೆ ಬಂದ ತರುವಾಯ ಮೊಹತರ್ಫಾ ತೆರಿಗೆಗಳಿಗೆ ಬದಲಾಗಿ ಪಂಚಾಯಿತಿ ತೆರಿಗೆಗಳು ವಸೂಲಾಗುವುದಕ್ಕೆ ಪ್ರಾರಂಭವಾಯಿತು. ಈ ಗ್ರಾಮಪಂಚಾಯಿತಿ ತೆರಿಗೆಗಳನ್ನು ವಿಧಾಯಕರು ಮಾಡುವ ಮತ್ತು ವಸೂಲುಮಾಡುವ ಕರ್ತವ್ಯವು ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳಿಗೆ ಸೇರಿತು. ತೆರಿಗೆಗಳನ್ನು ವಿಧಾಯಕರು ಮಾಡುವುದಕ್ಕೂ ಮತ್ತು ವಸೂಲು ಮಾಡುವುದಕ್ಕೂ ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳಿಗೆ ರೆಗ್ಯುಲೇಷನಿನ ಮೇರೆಗೆ ಸಾಕಾದಷ್ಟು ಅಧಿಕಾರಗಳೇನೂ ಇವೆ. ಆದಾಗಲೂ ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳ ತೆರಿಗೆ ಹಣಗಳು ಸರಿಯಾಗಿ ವಸೂಲಾಗುತ್ತಿಲ್ಲ. ತೆರಿಗೆಗಳನ್ನು ವಸೂಲುಮಾಡುವವರ ವಿಷಯದಲ್ಲಿ ಜನರಿಗೆ ಆದರವಿರುವುದಿಲ್ಲವಾದ ಕಾರಣ, ತಾವೇಕೆ ತಮ್ಮ ದಾಕ್ಷಿಣ್ಯವನ್ನು ಕಳೆದುಕೊಳ್ಳಬೇಕೆಂಬುದು ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳ ಅಧ್ಯಕ್ಷರುಗಳ ಯೋಚನೆ. ಆದಕಾರಣ ಅವರು ತೆರಿಗೆ ವಸೂಲಿ ಯಲ್ಲಿ ಸಾಮಾನ್ಯವಾಗಿ ಉದಾಸೀನರಾಗಿರುವರು ; ಅಥವಾ ತಮ್ಮ ದಾಕ್ಷಿಣ್ಯವನ್ನು ಕಳೆದುಕೊಳ್ಳಲಾರದೆ ಅವರಿಗೆ ತೆರಿಗೆ ವಸೂಲಿಗೆ ಮನಸ್ಸೇ ಇರುವುದಿಲ್ಲ. ಸಾಮಾನ್ಯವಾಗಿ ಈ ಒಗೆಯ ಪರಿಸ್ಥಿತಿಯೇ ಇದೆಯೆಂಬುದು ಸರ್ಕಾರದವರ ಅನುಭವಕ್ಕೆ ಬಂದಿದೆ. ತೆರಿಗೆಗಳು ಎಷ್ಟಿರಬೇಕೆಂದು ಗೊತ್ತುಮಾಡುವ ವಿಚಾರದಲ್ಲಿಯೂ ಸಹ ಗ್ರಾಮಪಂಚಾಯಿತಿ ಅಧ್ಯಕ್ಷರುಗಳು ಸಾಕಾದಷ್ಟು ಮಟ್ಟಿಗೆ ವಿವೇಚನೆಯನ್ನು ಉಪಯೋಗಿಸುತ್ತಿಲ್ಲ. ಅದೂ ಹಾಗಿರಲಿ. ಇನ್ನೂ ಕೆಲವು ಪಂಚಾಯಿತಿಗಳವರಂತು, ತಮ್ಮ ಗ್ರಾಮಗಳಲ್ಲಿ ವಸೂಲಾಗಬೇಕಾದ ತೆರಿಗೆಗಳ ಪಟ್ಟಿಯನ್ನು ಕೂಡ ತಯಾರಿಸಿರುವುದಿಲ್ಲ.

ಈ ಸ್ಥಿತಿಯನ್ನು ತಪ್ಪಿಸುವುದಕ್ಕಾಗಿ ಸರ್ಕಾರದವರು ಕ್ರಮಜರುಗಿಸಿದರು : ಮೊದಲನೆಯದಾಗಿ, ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳ ತೆರಿಗೆಗಳ ಬಾಕಿಯನ್ನು ವಸೂಲುಮಾಡುವ ಕಾರ್ಯವನ್ನು ಗ್ರಾಮನೌಕರರುಗಳಿಗೆ ವಹಿಸಿ ಅವರ ಮೂಲಕ ವಸೂಲುಮಾಡಿಸುವಂತೆ ಸರ್ಕಾರದವರು ಏರ್ಪಡಿಸಿದರು. ಅಲ್ಲದೆ ಎರಡನೆಯದಾಗಿ, ವಸೂಲಿಯ ಕೆಲಸಕ್ಕಾಗಿ ವಿಶೇಷರೀತಿಯ ರೆವೆನ್ಯೂ ಇನ್‌ಸ್ಪೆಕ್ಟರುಗಳನ್ನು ನೇಮಕಮಾಡಿಕೊಳ್ಳುವಂತೆ ಡೆಪ್ಯುಟಿ ಕಮಿಷನರುಗಳಿಗೆ ಸರ್ಕಾರದವರು ಅಪ್ಪಣೆ ಮಾಡಿದರು. ಇವೆರಡು ಉದ್ದೇಶಗಳೂ ನೆರವೇರುವಂತೆ ಸರ್ಕಾರದವರು 1930ನೆಯ ಇಸವಿಯ ಲಾಗಾಯಿತು ಅನೇಕ ಹುಕುಮುಗಳನ್ನು ಹೊರಡಿಸಿದರು. ಇಷ್ಟುಮಾಡಿಯೂ ಹೆಚ್ಚಿನ ಫಲವೇನೂ ಆಗಲಿಲ್ಲ. ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳಿಗೆ ಬರಬೇಕಾಗಿರುವ ತೆರಿಗೆಗಳ ಬಾಕಿಗಳು ವರ್ಷವರ್ಷವೂ ಹೆಚ್ಚಾಗುತ್ತಲೇ ಬಂದಿವೆ. ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳವರಲ್ಲರೂ ಹಾಕಿಯೇ ತೀರಬೇಕಾದ ನಿರ್ಬಂಧಕವಾದ ತೆರಿಗೆಗಳು ಕೆಲವೂ, ಅವರಿಗೆ ಇಷ್ಟವಿದ್ದಲ್ಲಿ ಹಾಕಬಹುದಾದ ಐಚ್ಛಿಕ ತೆರಿಗೆಗಳು ಕೆಲವೂ ಇವೆಯಷ್ಟೆ. 1935-36 ನೆಯ ಸಾಲಿನ ಕೊನೆಯಲ್ಲಿ ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳವರಿಗೆ ನ್ಯಾಯವಾಗಿ ಬರಲೇಬೇಕಾಗಿದ್ದ ಈ ನಿರ್ಬಂಧಕ ತೆರಿಗೆಗಳ ಬಾಕಿಯೇ 43,12,205 ರೂಪಾಯಿಗಳು. ಐಚ್ಛಿಕ ತೆರಿಗೆಯ ಬಾಕಿಗಳನ್ನು ಸೇರಿಸಿದೆಯೇ ಬಾಕಿಗಳ ಒಟ್ಟು ಮೊಬಲಗು ಇಷ್ಟು ಭಾರಿ. ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳಿಗೆ ಬರಬೇಕಾಗಿರುವ ತೆರಿಗೆಗಳನ್ನು ಸರಿಯಾಗಿ ವಸೂಲುಮಾಡುವುದಕ್ಕಾಗಿಯೂ, ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳವರು ಮಾಡಬೇಕಾಗಿರುವ ಶಾಶ್ವತವಾದ ಉಪಯೋಗವುಳ್ಳ ದೊಡ್ಡ ದೊಡ್ಡ ಕಾಮಗಾರಿಗಳನ್ನು ಕೈಕೊಳ್ಳುವುದಕ್ಕಾಗಿ ಆ ಮೂಲಕ ಸಾಕಾದಷ್ಟು ಹಣವನ್ನು ಒದಗಿಸುವುದಕ್ಕಾಗಿಯೂ ತಕ್ಕ ಏರ್ಪಾಡು ನಡೆಯಬೇಕಾಗಿದೆ. ಮೊಹತರ್ಫಾ ತೆರಿಗೆಗಳನ್ನು ವಿಧಿಸಿ ವಸೂಲುಮಾಡುವ ಜವಾಬ್ದಾರಿಯು ಸಂಪೂರ್ಣವಾಗಿ ರೆವೆನ್ಯೂ ಅಧಿಕಾರಿಗಳಿಗೆ ಇದ್ದುದು ಹಿಂದಿನ ಕ್ರಮ. ಈಗಲೂ ಮತ್ತೆ ಅದೇ ಕ್ರಮವನ್ನೇ ಆಚರಣೆಗೆ ತಂದಲ್ಲಿ, ಗ್ರಾಮಪಂಚಾಯಿತಿ ತೆರಿಗೆಗಳ ಬಾಕಿಗಳೆಲ್ಲಾ ಬೇಗಬೇಗ ಸಕಾಲದಲ್ಲಿ ವಸೂಲಾಗುವವೆಂದು ಸರ್ಕಾರದವರಿಗೆ ತೋರಿಬಂದಿದೆ. ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳ ರೆಗ್ಯುಲೇಷನನ್ನು ಈ ಉದ್ದೇಶಕ್ಕಾಗಿ ತಿದ್ದುಪಾಟು ಮಾಡಬೇಕಾಗಿದೆ. ಅದಕ್ಕಾಗಿ ಸರ್ಕಾರದವರು ಈ ಮಸೂದಾ ಕಾನೂನನ್ನು ರಚಿಸಿದ್ದಾರೆ.

ಸ್ಥಳೀಯ ಪ್ರಜಾಧಿಕಾರದ ಬಾಬಿಗಾಗಿಯೂ, ವೈದ್ಯಕ ಮತ್ತು ಜನಾರೋಗ್ಯ ರಕ್ಷಣೆಯ ಬಾಬಿಗಾಗಿಯೂ ಏರ್ಪಟ್ಟಿರುವ "ಸ್ಟ್ಯಾಂಡಿಂಗ್ ಕಮಿಟಿ" ಯೆಂಬ ಸಮಿತಿಯ ಮೀಟಿಂಗು 1937ನೆಯ ಇಸವಿಯ ಮೇ ಒಂದನೆಯ ತಾರೀಖಿನಲ್ಲಿ ನಡೆದಾಗ, ಗ್ರಾಮಪಂಚಾಯಿತಿ ತೆರಿಗೆಗಳ ವಸೂಲಿ ವಿಚಾರವನ್ನೂ ಸರ್ಕಾರದವರು ಆ ಸಮಿತಿಯ ಪರ್ಯಾಲೋಚನೆಗೆ ವಹಿಸಿದರು. ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳ ರೆಗ್ಯುಲೇಷನನ್ನು ತಿದ್ದುಪಾಟು ಮಾಡುವುದಕ್ಕಾಗಿ ಈಗ ರಚಿಸಿರುವ ಬಗೆಯ ಮಸೂದಾ ಕಾನೂನು ಅತ್ಯವಶ್ಯವಾಗಿ ಬೇಕೇಬೇಕೆಂದು ಅವರೂ ಆಗ್ಗೆ ಅಭಿಪ್ರಾಯಪಟ್ಟಿದ್ದರು. ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳ ಆಡಳಿತವನ್ನು ಉತ್ತಮಗೊಳಿಸಬೇಕಾದರೆ, ಅದು ಅತ್ಯವಶ್ಯವಾಗಿ ಬೇಕೇಬೇಕೆಂಬುದು ಆ ಸಮಿತಿಯವರ ಸರ್ವಸಾಧಾರಣವಾದ ಅಭಿಪ್ರಾಯ. ಈ ವಿಷಯದಲ್ಲಿ ಹಿಂದೆ ಜಾರಿಯಲ್ಲಿದ್ದ ವಸೂಲಾತಿಯ ಕ್ರಮವನ್ನೇ ಪುನಃ ಜಾರಿಗೆ ತರುವುದು ಅತ್ಯಗತ್ಯವೆಂದು ಪ್ರಜಾಪ್ರತಿನಿಧಿ ಸಭೆಯ ಸದಸ್ಯರೂ ಸಹ ಕಳೆದ ಜೂನ್ ತಿಂಗಳಿನಲ್ಲಿ ನಡೆದ ಬಡ್ಡೆಟ್ ಅಧಿವೇಶನದಲ್ಲಿ ಅರಿಕೆ ಮಾಡಿದ್ದರು.

ಈಗಿನ ಕ್ರಮವನ್ನು ಆ ರೀತಿ ಬದಲಾಯಿಸುವುದಕ್ಕಾಗಿಯೇ ಈ ಮಸೂದಾ ಕಾನೂನನ್ನು ರಚಿಸಲಾಗಿದೆ. ಅದು ಜಾರಿಗೆ ಬಂದಾಗ ಈಗಿರತಕ್ಕ ಕ್ರಮದಲ್ಲಿ ಆಗತಕ್ಕ ಬದಲಾವಣೆಗಳೇನೆಂದರೆ:—ಆಯಾ ತಾಲ್ಲೂಕಿನಲ್ಲಿರುವ ಪ್ರತಿಯೊಂದು ಪಂಚಾಯಿತಿಯವರೂ ನಿರ್ಬಂಧಕವಾಗಿ ವಿಧಿಸಬೇಕಾದ ತೆರಿಗೆಗಳು ಎಷ್ಟೆಷ್ಟು ಇರಬೇಕೆಂಬುದನ್ನು ಆಯಾ ತಾಲ್ಲೂಕಿನ ಅಮಲ್ದಾರರು ಗೊತ್ತುಮಾಡಬೇಕಾಗುತ್ತದೆ. ಅಲ್ಲದೆ ತಾಲ್ಲೂಕಿನಲ್ಲಿರುವ ಪ್ರತಿಯೊಂದು ಗ್ರಾಮಪಂಚಾಯಿತಿಯ ಸಂಬಂಧದ ತೆರಿಗೆ ಪಟ್ಟಿಯನ್ನು ತಯಾರುಮಾಡಿಸುವುದಕ್ಕೂ ಅಮಲ್ದಾರರೇ ಜವಾಬ್ದಾರ ರಾಗಿರಬೇಕಾಗುತ್ತದೆ. ಐಚ್ಛಿಕವಾದ ತೆರಿಗೆಗಳನ್ನು ಮಾತ್ರ ಆಗಲೂ ಈಗಿನಂತೆಯೇ ಗ್ರಾಮಪಂಚಾಯಿತಿಯವರೇ ವಿಧಾಯಕಮಾಡಲು ಅವರಿಗೆ ಅಧಿಕಾರವಿರುತ್ತದೆ. ಆದರೆ ಅವುಗಳನ್ನು ವಸೂಲುಮಾಡಿಸುವ ಜವಾಬ್ದಾರಿ ಯನ್ನೇನೂ ಅಮಲ್ದಾರರುಗಳಿಗೆ ವಹಿಸಲಾಗುವುದು. ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳಿಗೆ ಸ್ವಲ್ಪಬೇಕಾದ ಬಾಕಿಯ ಮೊಬಲಗುಗಳನ್ನು ವಸೂಲು ಮಾಡಬೇಕಾದರೆ ಮೂರು ವರುಷಗಳೊಳಗಾಗಿಮಾತ್ರವೇ ವಸೂಲು ಮಾಡಬಹುದೆಂಬ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯನ್ನು ಆರು ವರುಷಗಳಿಗೆ ಹೆಚ್ಚಿಸಲಾಗುವುದು. ಗ್ರಾಮಪಂಚಾಯಿತಿಗಳ ತೆರಿಗೆಗಳು ಸಮರ್ಪಕವಾಗಿ ವಸೂಲಾಗುವಂತೆ ಮಾಡುವುದಕ್ಕಾಗಿ, ಈಗಿನ ಕ್ರಮದಲ್ಲಿ ಈ ಬದಲಾವಣೆಗಳನ್ನು ಮಾಡಿ ತಿದ್ದು ಪಾಟು ಮಸೂದಾ ಕಾನೂನನ್ನು ರಚಿಸಲಾಗಿದೆ.

III. ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನನ್ನು ತಿದ್ದುಪಡಿಮಾಡುವುದಕ್ಕಾಗಿ ರಚಿಸಿರುವ ಮಸೂದಾ ಕಾನೂನಿನ ಸಾಮಾನ್ಯ ನಿಯಮಗಳ ವಿವರಣೆ.

ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನಿನ 29ನೆಯ ಪ್ರಕರಣವು ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದಲ್ಲಿ 1922ನೆಯ ಇಸವಿಯಲ್ಲಿ ತಿದ್ದುಪಡಿಯಾಯಿತು. ಮೈಸೂರು ಡಿಪ್ಟಿಕ್ಟಿನ ಡೆಪ್ಯುಟಿ ಕಮಿಷನರ್ ಮತ್ತು ಮುಜರಾಯಿ ಆಫೀಸರವರ ಹುಕುಮಿನ ಸಂಬಂಧದಲ್ಲಿ ಮೋರ್ತೀರಾಂ ಲಾಲಾ ಎಂಬವರು ಮಾಡಿದ್ದ ಅಪೀಲು ಮೊಕದ್ದಮೆಯ ತೀರ್ಮಾನದಲ್ಲಿ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಹೈಕೋರ್ಟಿನವರು ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದಲ್ಲಿ ತಿದ್ದುಪಡಿಮಾಡಿರುವಂತೆ, ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನಿನ 29ನೆಯ ಪ್ರಕರಣವನ್ನು ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿ ಕೂಡ ತಿದ್ದುಪಡಿ ಮಾಡುವುದು ಉಚಿತ ವೆಂದು ಸೂಚಿಸಿದರು. (ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಹೈಕೋರ್ಟು ತೀರ್ಮಾನಗಳ ವರದಿಯ 40ನೆಯ ಸಂಪುಟದ 330ನೆಯ ಪುಟವನ್ನು ನೋಡಿ.) ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನಿನ 3 ನೆಯ ಪ್ರಕರಣದ ವಿನಾಯಿತಿಗಳಲ್ಲಿಯೂ ಮತ್ತು ಪರತ್ತುಗಳಲ್ಲಿಯೂ ಬಹು ಭಾಗದವುಗಳಲ್ಲಿ ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನಿನ ಮೇರೆಗೆ ವಿಧಾಯಕವಾಗಿರುವ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಗಳಿಗೆ ಮಾತ್ರವೇ ಅಲ್ಲದೆ, ಇತರ ರೆಗ್ಯುಲೇಷನುಗಳ ಮೇರೆಗೆ ವಿಧಾಯಕವಾಗಿರುವ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಗಳಿಗೂ ಅನ್ವಯಿಸುವ ಹಾಗೆ ಏರ್ಪಡಿಸಿ 29ನೆಯ ಪ್ರಕರಣವನ್ನು ತಿದ್ದುಪಾಟುಮಾಡಬೇ ಕೆಂಬುದು ಅವರ ಸೂಚನೆಯ ಉದ್ದೇಶ. ಈಗ ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿ ಜಾರಿಯಲ್ಲಿರುವ ರೀತಿಯಲ್ಲಿ, ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನಿನ 29ನೆಯ ಪ್ರಕರಣವು ವಿಧಾಯಕಮಾಡುವ ಅಂಶವಿಷ್ಟು : ಯಾವುದಾದರೂ ವಿಶೇಷ ಸ್ವಭಾವದ ಕಾನೂನಿನಿಂದಲೇ ಆಗಲಿ, ಅಥವಾ ಆಯಾ ಪ್ರಾಂತದಲ್ಲಿ ಮಾತ್ರ ಜಾರಿಯಲ್ಲಿರುವ ಯಾವುದಾದರೂ ಕಾನೂನಿನಿಂದಲೇ ಆಗಲಿ ಯಾವುದೊಂದು ದಾವೆಗೆ, ಅಪೀಲಿಗೆ ಅಥವಾ ಅರ್ಜಿಗೆ ವಿಶೇಷರೀತಿಯಲ್ಲಿ ಗೊತ್ತಾಗಿರುವ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯು ಇದ್ದಪಕ್ಷಕ್ಕೆ ಲಿಮಿಟೇಷನ್ ಆಕ್ಟಿನ ಯಾವ ನಿಬಂಧನೆಯಿಂದಲೂ ಅದಕ್ಕೆ ಬಾಧಕ ಬರತಕ್ಕದ್ದು ಅಥವಾ ಅದು ಬದಲಾವಣೆಯಾಗತಕ್ಕದ್ದು—ಎಂದು. 1922ನೆಯ ಇಸವಿಯಲ್ಲಿ ತಿದ್ದುಪಡಿಯಾ ಗುವುದಕ್ಕಿಂತ ಮುಂಚೆ ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದಲ್ಲಿಯೂ ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನಿನ 29ನೆಯ ಪ್ರಕರಣವು ಇದೇರೀತಿ ಇದ್ದಿತ್ತು. ಆಗ್ಗೆ ಅಲ್ಲಿ ಅದಕ್ಕೆ ಅರ್ಥಮಾಡಿ ಮೊಕದ್ದಮೆಗಳಿಗೆ ಅನ್ವಯಿಸುವ ವಿಷಯದಲ್ಲಿ ಹೈ ಕೋರ್ಟು ಗಳಲ್ಲಿ ನಡೆದ ತೀರ್ಮಾನಗಳು ಪರಸ್ಪರ ವಿರುದ್ಧವಾಗಿದ್ದುವು. ಕೆಲವು ಹೈ ಕೋರ್ಟುಗಳವರು ವಿಶೇಷ ಕಾನೂನಿ ನಿಂದ ಲಿಮಿಟೇಷನ್ ವಾಯಿದೆಯು ಗೊತ್ತಾಗಿದ್ದರೂ ಲಿಮಿಟೇಷನ್ ಆಕ್ಟಿನ ಸರ್ವಸಾಮಾನ್ಯ ನಿಬಂಧನೆ ಗಳಿಗನುಸಾರವಾಗಿರುವಂತೆ ಆ ಅವಧಿಯು ಮಾರ್ಪಡಲೇಬೇಕೆಂದು ತೀರ್ಮಾನಿಸಿದರು. ಇತರ ಹೈ ಕೋರ್ಟುಗಳವರು, ಅದಕ್ಕೆ ವಿರುದ್ಧರೀತಿಯಲ್ಲಿ ತೀರ್ಪು ಕೊಟ್ಟು, ವಿಶೇಷ ಸ್ವಭಾವದ ಕಾನೂನಿನಲ್ಲಿ ವಿಧಾಯಕ ವಾಗಿದ್ದ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯಿದ್ದ ಮೇಲೆ ಅದೇ ಸಲುವಳಿಯಾಗಬೇಕೇ ಹೊರತು, ಲಿಮಿಟೇಷನ್ ಆಕ್ಟಿಗೂ ಅದಕ್ಕೂ ಸಂಬಂಧವಿಲ್ಲವೆಂದು ಅಪ್ಪಣೆ ಮಾಡಿದರು. ಹೈ ಕೋರ್ಟುಗಳ ತೀರ್ಮಾನಗಳು ಹೀಗೆ ಪರಸ್ಪರ ವಿರುದ್ಧ ವಾಗಿದ್ದುದನ್ನು ಬಗೆ ಹರಿಸುವ ಉದ್ದೇಶದಿಂದ, 1922ನೆಯ ಇಸವಿಯ Xನೆಯ ನಂಬರು ಆಕ್ಟು ಜಾರಿಗೆ ಬರಬೇ ಕಾಯಿತು. ಅದರಿಂದ ಲಿಮಿಟೇಷನ್ ಆಕ್ಟಿನ 29ನೆಯ ಪ್ರಕರಣವು ತಿದ್ದುಪಡಿಯಾಯಿತು. ಈ ಮೊದಲೇ ತಿಳಿಸಿರು ವಂತೆ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಹೈ ಕೋರ್ಟಿನವರು ತಮ್ಮ ತೀರ್ಮಾನದಲ್ಲಿ ಸೂಚಿಸಿರುವ ಮೇರೆಗೆ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನಿನ 29ನೆಯ ಪ್ರಕರಣವನ್ನು ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದಲ್ಲಿರುವಂತೆಯೇ ತಿದ್ದುಪಡಿ ಮಾಡಬೇಕೆಂದು ಈಗ ಸರ್ಕಾರದವರು ಉದ್ದೇಶಿಸಿದ್ದಾರೆ. ಅಷ್ಟೇ ಅಲ್ಲ. ಈಗಿನ 29ನೆಯ ಪ್ರಕರಣವನ್ನು ತಿದ್ದು ಪಡಿ ಮಾಡುವ ಇದೇ ಸಮಯದಲ್ಲಿ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನಿನಲ್ಲಿ ಮತ್ತೆ ಕೆಲವು ಬದಲಾ ವಣೆಗಳನ್ನೂ ಮಾಡಿ, ಅದು ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದ ಲಿಮಿಟೇಷನ್ ಆಕ್ಟಿಗನುಸಾರವಾಗಿರುವಂತೆ ಮಾಡುವ ಉದ್ದೇಶವೂ ಇದೆ. 1919ನೆಯ ಇಸವಿಯಲ್ಲಿಯೂ, 1920ನೆಯ ಇಸವಿಯಲ್ಲಿಯೂ, 1922ನೆಯ ಇಸವಿಯಲ್ಲಿಯೂ ಮತ್ತು 1929ನೆಯ ಇಸವಿಯಲ್ಲಿಯೂ ಮಂಜೂರಾದ ತಿದ್ದುಪಡಿ ಆಕ್ಟುಗಳಿಂದ ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದ ಲಿಮಿಟೇಷನ್ ಆಕ್ಟಿ ನಲ್ಲಿ ಬಹು ಮುಖ್ಯವಾದ ಹಲವು ಬದಲಾವಣೆಗಳಾಗಿವೆ. ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನಿನಲ್ಲಿಯೂ ಇಲ್ಲಿಗೆ ಸರಿಹೋಗುವ ಮಟ್ಟಿಗೂ ಈಗ ಆ ಬದಲಾವಣೆಗಳನ್ನೇ ಮಾಡಿ, ಅದೂ ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದ ಲಿಮಿಟೇಷನ್ ಆಕ್ಟಿಗನುಸಾರವಾಗಿರುವಂತೆ ಮಾಡಬೇಕೆಂದು ಉದ್ದೇಶಿಸಿ, ಮಸೂದಾ ಕಾನೂನನ್ನು ರಚಿಸಲಾಗಿದೆ.

ಈಗ ಮಾಡಬೇಕೆಂದಿರುವ ತಿದ್ದುಪಾಟುಗಳಲ್ಲಿ ಅತ್ಯಂತ ಮುಖ್ಯವಾದವುಗಳ ನಿಯಮಗಳೇನೆಂದರೆ:--

ಈಗ ಮಾಡಬೇಕೆಂದಿರುವ ತಿದ್ದುಪಾಟುಗಳಲ್ಲಿ ಅತ್ಯಂತ ಮುಖ್ಯವಾದದ್ದು (i) ಮತ ಸಂಬಂಧವಾದ ಸಂಸ್ಥೆಗಳಿಗೂ ಧರ್ಮಾರ್ಥವಾದ ಸಂಸ್ಥೆಗಳಿಗೂ ಸ್ವತ್ತುಗಳು ವಹಿಸಿಕೊಡಲ್ಪಡುವುದು ಸರಿಯಷ್ಟೆ. ಹಾಗೆ ವಹಿಸಿಕೊಡಲ್ಪಟ್ಟ ಸಂದರ್ಭಗಳಲ್ಲಿ ಆ ಸಂಸ್ಥೆಗಳ ವ್ಯವಸ್ಥಾಪಕನು (ಮ್ಯಾನೇಜರು) ಟ್ರಸ್ಟಿಯಂತೆ ಆ ಸ್ವತ್ತುಗಳನ್ನು ಸ್ವಾಧೀನದಲ್ಲಿಟ್ಟುಕೊಂಡಿರುವನೆಂದು ಭಾವಿಸಿಕೊಡದೆಂಬುದು ಈಚಿನ ಕೋರ್ಟು ತೀರ್ಮಾನಗಳ ಅಶಯ. ಆತನು ಕೇವಲ ವ್ಯವಸ್ಥಾಪಕನಂತೆ (ಮ್ಯಾನೇಜರಂತೆ) ಸ್ವತ್ತನ್ನು ಪಡೆದಿರುತ್ತಾನೆಯೇ ಹೊರತು, ಟ್ರಸ್ಟಿನ ಸ್ವತ್ತಿನಂತೆ ಅದನ್ನು ಪಡೆದಿರುವುದಿಲ್ಲವೆಂದು ಅವುಗಳ ಮೇರೆಗೆ ವಿಧಾಯಕವಾಗಿದೆ. ಆದಕಾರಣ, ಆ ಟ್ರಸ್ಟಿನ ಸ್ವತ್ತಿನಂತೆ ಅದನ್ನು ಪಡೆದಿರುವುದಿಲ್ಲವೆಂದು ಅವುಗಳ ಮೇರೆಗೆ ವಿಧಾಯಕವಾದ ಮೇಲೆ ಬೇಕಾದರೂ ಸ್ವತ್ತುಗಳ ಸಂಬಂಧದಲ್ಲಿ ಅವನ ಮೇಲೆ ದಾವಾಮಾಡಬೇಕಾದರೆ ಎಷ್ಟು ಅವಧಿಯು ಕಳೆದ ಮೇಲೆ ಬೇಕಾದರೂ ಹಾಗೆ ಮಾಡಲು ಈಗ ಅವಕಾಶವಿಲ್ಲ. ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನ್ನಿನ 10 ನೆಯ ಪ್ರಕರಣವು ಅಂಥ ಸಂದರ್ಭಕ್ಕೆ ಅನ್ವಯಿಸದಿರುವುದೇ ಅದಕ್ಕೆ ಕಾರಣವಾಗಿದೆ. ಆದುದರಿಂದ, ಹಿಂದೂಗಳ ಮತ್ತು ಮುಸಲ್ಮಾನರ ಮತ ಸಂಬಂಧವಾದ ಸಂಸ್ಥೆಗಳಿಗೆ ಧರ್ಮಾರ್ಥವಾಗಿ ಕೊಡಲ್ಪಟ್ಟ ಸ್ವತ್ತುಗಳು ಕೂಡ, ಟ್ರಸ್ಟು ಸ್ವತ್ತಿಗೆ ಸಮವಾಗಿಯೇ ಭಾವಿಸಲ್ಪಡಬೇಕೆಂದು ನಿಬಂಧನೆಯಾದರೆ, ಆಗ ಅವಕ್ಕೂ ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನ್ನಿನ 10ನೆಯ ಪ್ರಕರಣವು ಅನ್ವಯಿಸುವಂತಾಗುತ್ತದೆ; ಈಗಿರುವ ನ್ಯೂನತೆಯು ಪರಿಹಾರವಾಗುತ್ತದೆ. ಆದಕಾರಣ, ಆ ಸ್ವತ್ತುಗಳು ಕೂಡ, ಲಿಮಿಟೇಷನ್ ವಾಯಿದೆಯ ವಿಚಾರದಲ್ಲಿ ಒಬ್ಬ ಟ್ರಸ್ಟಿಯ ಆಡಳಿತದಲ್ಲಿರುವ ಟ್ರಸ್ಟು ಸ್ವತ್ತಿಗೆ ಸಮಾನವಾಗಿಯೇ ಪರಿಗಣಿಸಲ್ಪಡಲಿರುವ ಹಾಗೆ ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನ್ನಿನ 10ನೆಯ ಪ್ರಕರಣವನ್ನು ತಿದ್ದುಪಡಿ ಮಾಡಲು ಮನೂದಾ ಕಾನೂನಿನಲ್ಲಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

[illegible]

(iii) ಒಬ್ಬನು ತನ್ನ ಸ್ವತ್ತಿನ ಬಾಬತು ತನಗೆ ಹಕ್ಕನ್ನುಂಟುಮಾಡಿಕೊಳ್ಳುವದನ್ನಾಪೇಜುಗಳನ್ನು ತೇವಣಿ ಯಾಗಿ ಒಪ್ಪಿಸಿ ಆ ಮೂಲಕ ನಡೆಯಿಸಿದ ಅಡಮಾನದ ಸಲುವಾಗಿ ಅವನಿಂದ ಹಣವನ್ನು ಬರಮಾಡಿಕೊಳ್ಳುವುದಕ್ಕಾಗಿ ದಾವಾ ಮಾಡುವುದಕ್ಕೆ ಎಷ್ಟು “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯೆಂಬುದು ಈಗ ವಿಧಾಯಕವಾಗಿಲ್ಲ. ಇಂಥ ಸಂದರ್ಭಗಳಲ್ಲಿ ದಾವಾ ಮಾಡುವುದಕ್ಕೆ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯು 12 ವರ್ಷಗಳೆಂದು ಗೊತ್ತುಮಾಡಿ, ಈಗ ಮನೂದಾ ಕಾನೂನಿನಲ್ಲಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

(iv) ಮತಸಂಬಂಧವಾದ ಸಂಸ್ಥೆಗಳ ಮತ್ತು ಧರ್ಮಾರ್ಥವಾದ ಸಂಸ್ಥೆಗಳ ದತ್ತಿಗಳ ಸಂಬಂಧದ ದಾವಾ ಗಳಗೂ ಸಹ ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನ್ನಿನ 133ನೆಯ ಮತ್ತು 134ನೆಯ ಅರ್ಟಿಕಲ್‌ಗಳು ಅನ್ವಯಿಸುವಂತೆ ಅವು ಗಳನ್ನು ತಿದ್ದುಪಾಟುಮಾಡಲು ಉದ್ದೇಶಿಸಿ ಮನೋದಾಕಾನೂನಿನಲ್ಲಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ. ಅಂಥ ಒಂದು ಗಳನ್ನು ತಿದ್ದು ಪಾಟು ಮಾಡಲು ಉದ್ದೇಶಿಸಿ ಮನೋದಾಕಾನೂನಿನಲ್ಲಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ. ಅಂಥ ಒಂದು ನಂಜಿಯ ದತ್ತಿಯ ಸಂಬಂಧವಾಗಿ ಆಸಕ್ತಿ ಇರತಕ್ಕವರು, ಆ ಸಂಸ್ಥೆಯ ವ್ಯವಸ್ಥಾಪಕನು (ಎಂದರೆ ಮಾನ್ಯ ಜರು) ಮಾಡಿದ ಆ ದತ್ತಿಯ ಪರಿಭಾರಿಯು ರದ್ದಾಗಬೇಕೆಂದು ದಾವಾ ತರ್ಬೇಕಾದರೆ ಯಾವ ಅವಧಿಯೊಳಗಾಗಿ ಆ ರೀತಿ ಕನು (ಎಂದರೆ ಮಾನ್ಯ ಜರು) ತನೆಗಿಂತ ಮುಂಚೆ ವ್ಯವಸ್ಥಾಪಕನಾಗಿದ್ದವನು ಪ್ರತಿಫಲವನ್ನು ಸ್ವೀಕರಿಸಿ ಸ್ವತ್ವವನ್ನು ವರ್ಗಾಯಿಸಿ ಪರಿಭಾರೆಮಾಡಿಲ್ಲ ಸಂದರ್ಭಗಳಲ್ಲಿ ಸ್ವತ್ವವನ್ನು ಮತ್ತೆ ಹಿಂದಕ್ಕೆ ಪಡೆಯಲು ದಾವಾ ಮಾಡತಕ್ಕ ಸಂದರ್ಭಗಳಿಗೆ ಕೂಡ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯನ್ನು ಗೊತ್ತುಮಾಡಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ. ಆ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯು, ಸ್ವತ್ವವನ್ನು ವರ್ಗಾಯಿಸಿ ಪರಿಭಾರೆಮಾಡಿದ ವ್ಯವಸ್ಥಾಪಕನು ಮರಣ ಹೊಂದಿದ ಅಥವಾ ರಾಜೀನಾಮೆ ಕೊಟ್ಟ ಅಥವಾ ವ್ಯವಸ್ಥಾಪಕನ ಕೆಲಸದಿಂದ ತೆಗೆದು ಹಾಕಲ್ಪಟ್ಟ ತಾರೀಖಿನಿಂದ ಲೆಕ್ಕಾಚಾರವಾಗಬೇಕೆಂದು ಗೊತ್ತು ಮಾಡಿದೆ. ಇಂಥ ಇತರ ಸಂದರ್ಭಗಳಲ್ಲಿ ಹನ್ನೆರಡು ವರ್ಷಗಳ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯು ಇರುವುದೇ ವಾಡಿಕೆ. ಅದರಂತೆಯೇ ಈ ಸಂದರ್ಭಕ್ಕೂ ಸಹ, ಹನ್ನೆರಡು ವರ್ಷಗಳ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯನ್ನು ಗೊತ್ತುಮಾಡಲಾಗಿದೆ.

(v) ಇನ್ನು “ಅವಾರ್ಡ್” ತೀರ್ಮಾನಗಳ ಸಂಬಂಧದ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯ ವಿಚಾರ. ಒಂದು “ಅವಾರ್ಡ್” ತೀರ್ಮಾನವನ್ನು ರದ್ದುಪಡಿಸಬೇಕೆಂದು ಸಂಬಂಧಪಟ್ಟ ಕಕ್ಷಿಗಾರರು ದಾವೆಯನ್ನು ತರಬೇಕಾದರೆ ಆ “ಅವಾರ್ಡ್” ತೀರ್ಮಾನವು ಕೋರ್ಟಿಗೆ ಒಪ್ಪಿಸಲ್ಪಟ್ಟ ತರುವಾಯ ಎಷ್ಟು ಕಾಲದೊಳಗಾಗಿ ಆ ರೀತಿ ಮಾಡಬೇಕೆಂದು ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನ್ 158ನೆಯ ಅರ್ಟಿಕಲಿನಲ್ಲಿ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯು ನಮೂದಾಗಿದೆ. ಆ ಅರ್ಟಿಕಲನ್ನೂ, ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನ ಎರಡನೆಯ ಷೆಡ್ಯೂಲಿನ 10ನೆಯ ಪ್ಯಾರಾವನ್ನೂ ಒಟ್ಟಿಗೆ ಓದಿ ಪರ್ಯಾಲೋಚಿಸಿ ನೋಡಿದರೆ, “ಅವಾರ್ಡ್” ತೀರ್ಮಾನವು ಕೋರ್ಟಿಗೆ ಒಪ್ಪಿಸಲ್ಪಟ್ಟದೆಯೆಂದು ಕಕ್ಷಿಗಾರರಿಗೆ ತಿಳಿದುಕೊಳ್ಳಲು ತಲೆದಿಡಿದ ತಾರೀಖಿನಿಂದ “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯನ್ನು ಲೆಕ್ಕಹಾಕಬೇಕೆಂಬುದನ್ನು ಸ್ಪಷ್ಟವಾಗಿ ನಮೂದಿಸುವುದು ಅವಶ್ಯಕವೆಂದು ತೋರುತ್ತದೆ. ಮನೂದಾಕಾನೂನಿನಲ್ಲಿ ಆ ರೀತಿ ಮಾಡಲಾಗಿದೆ.

(vi) ಡಿಕ್ರಿಯ ಅಮಲ್ಜಾರಿಯಲ್ಲಿ ಸ್ವತ್ತನ್ನು ಹರಾಜು ಮಾಡುವುದು ಸರಿಯಷ್ಟೆ. ಹಾಗೆ ಹರಾಜು ನಡೆಸದ ಸಂದರ್ಭಗಳಲ್ಲಿ ಹರಾಜಿನ ವಿಷಯವನ್ನು ಪ್ರಕಟಿಸುವುದರಲ್ಲಾಗಲಿ ಅಥವಾ ಹರಾಜನ್ನು ನಡೆಯಿಸುವುದರಲ್ಲಾಗಲಿ ಮೋಸನಡೆಯಿತೆಂಬ ಕಾರಣಕ್ಕಾಗಿ ಆ ಹರಾಜು ರದ್ದುಗೊಳಿಸಬೇಕೆಂದು ಕೋರ್ಟಿಗೆ ಅರ್ಜಿಯನ್ನು ಕೊಡುವುದರ ವಿಚಾರವೂ ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನ್ 166ನೆಯ ಅರ್ಟಿಕಲಿನಲ್ಲಿ ಅಡಕವಾಗಿರುವಂತೆ ಏರ್ಪಡಿಸಲಾಗಿದೆ.

(vii) ಕೋರ್ಟು ವ್ಯವಹಾರಣೆಯ ನಡೆಯುತ್ತಿರುವಾಗ ಯಾವ ಕಕ್ಷಿಗಾರನಾದರೂ ಮೃತನಾದರೆ, ಕಾನೂನು ಮೇರೆಗೆ ಅವನ ವಾರಸುದಾರನನ್ನು ರಿಕಾರ್ಡಿಗೆ ದಾಖಲು ಮಾಡಿಸುವುದಕ್ಕೆ ಈಗ ಅರು ತಿಂಗಳ ವಾಯಿದೆಯು ಗೊತ್ತಾಗಿದೆ. ಈ ವಾಯಿದೆಯು ಬಹಳ ಹೆಚ್ಚು. ಅದನ್ನು ತೊಂಬತ್ತು ದಿನಗಳಿಗೆ ತಗ್ಗಿಸಬೇಕೆಂದು ಈಗ ಉದ್ದೇಶಿಸಲಾಗಿದೆ. ಹೀಗೆ ಅದನ್ನು ತೊಂಬತ್ತು ದಿನಗಳಿಗೆ ತಗ್ಗಿಸಿದರೆ ಮೊಕದ್ದಮೆಗಳ ತೀರ್ಮಾನವು ತಡವಾಗುವುದು ಕಡಮೆಯಾಗುತ್ತದೆ. ಹೀಗೆ ವಾಯಿದೆಯನ್ನು ಕಡಮೆ ಮಾಡಿದರೆ, ಮೃತನ ವಾರಸುದಾರರ ಹೆಸರು ವಿಳಾಸಗಳನ್ನು ಗೊತ್ತುಮಾಡಿಕೊಂಡು ಕೋರ್ಟಿಗೆ ತಿಳಿಸಬೇಕಾದ ಕಕ್ಷಿಗಾರರಿಗೆ ತೊಂದರೆಯಾಗುವುದೆಂದೂ, ಅವರು ಅವುಗಳನ್ನು ವಿಚಾರಿಸಿ ಪತ್ತೆ ಮಾಡುವುದು ಕಷ್ಟವೆಂದೂ ಹೇಳುವುದರಲ್ಲಿ ಅಷ್ಟೇನೂ ಹುರುಳು. ವಾಯಿದೆಯನ್ನು ತೊಂಬತ್ತು ದಿನಗಳಿಗೆ ತಗ್ಗಿಸಿದರೆ ಉದ್ಯೋಗಶೀಲರಾಗಿ ಜಾಗರೂಕರಾಗಿರುವ ಕಕ್ಷಿಗಾರರಿಗಂದಿಗೂ ಕಷ್ಟವಾಗುವುದಿಲ್ಲ. ಇಷ್ಟಕ್ಕೂ ಕ್ಲುಪ್ತವಾದ ವಾಯಿದೆಯ ಅವಧಿಯೊಳಗಾಗಿ ನಡೆಯಬೇಕಾದ ಕೆಲಸವಾದರೂ ಏನು? ಮೃತನ ನ್ಯಾಯ ಸಮ್ಮತರಾದ ವಾರಸುದಾರರು ಯಾರೆಂಬುದನ್ನು ನಮೂದಿಸುವ ಅರ್ಜಿಯನ್ನು ಕಕ್ಷಿಗಾರರು ಕೋರ್ಟಿಗೆ ಆ ವಾಯಿದೆಯೊಳಗಾಗಿ ದಾಖಲು ಮಾಡುವುದೆಷ್ಟೋ ಅಷ್ಟೆ. ವಾರಸುದಾರರ ಸರಿಯಾದ ವಿಳಾಸವು ಗೊತ್ತಾಗುವುದು ಕಷ್ಟವಾದರೆ, ಆ ಕಾರಣದಿಂದ ಸಮರ್ಪಣೆಯಲ್ಲಿ ತಡವಾಗುವ ಸಂದರ್ಭಗಳಲ್ಲಿ ಕಕ್ಷಿಗಾರರಿಗೆ ಅದರಿಂದ ಯಾವುದೊಂದು ಬಾಧಕವೂ ಒದಗದಂತೆ ನೋಡಿಕೊಳ್ಳಲು ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನಲ್ಲಿ ತಕ್ಕ ನಿಬಂಧನೆಗಳಿದ್ದೇ ಇವೆ.

IV. ಸ್ವತ್ತಿನ ಪರಿವರ್ತನೆ ರೆಗ್ಯುಲೇಷನ್‌ನ್ನು ತಿದ್ದುಪಾಟು ಮಾಡುವುದಕ್ಕಾಗಿ ರಚಿಸಿರುವ ಮನೂದಾಕಾನೂನಿನ ಸಾಮಾನ್ಯ ನಿಯಮಗಳ ವಿವರಣೆ.

ಸ್ವತ್ತುಗಳ ಆಧಾರ, ಭೋಗ್ಯ, ಕ್ರಯ ಮುಂತಾದ ವ್ಯವಹಾರಗಳಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಕಾನೂನಾದ ಸ್ವತ್ತಿನ ಪರಿವರ್ತನೆ ರೆಗ್ಯುಲೇಷನ್‌ನ್ನು ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿ 1918ನೆಯ ಇಸವಿಯಲ್ಲಿ ಮಂಜೂರು ಮಾಡಿ ಜಾರಿಗೆ ತಂದು ಸರಿಯಷ್ಟೆ. ಅದನ್ನು ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದ 1882ನೆಯ ಇಸವಿಯ ಆಕ್ಟಿನ ಮಾದರಿಯ ಮೇಲೆ ರಚಿಸಲಾಯಿತು. ಹಾಗೆ ರಚಿಸುವಲ್ಲಿ ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದ ಆ ಆಕ್ಟಿಗೆ 1918ನೆಯ ಇಸವಿಯ ವರೆಗೂ ನಡೆದಿದ್ದ ತಿದ್ದುಪಾಟುಗಳನ್ನೆಲ್ಲ ಪರ್ಯಾಲೋಚಿಸಿ ಹಾಗೆ ಮಾಡಲಾಯಿತು. ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದ ಆಕ್ಟು ಅಲ್ಲಂದಿರಬೇಕೆಂದು ಮತ್ತಷ್ಟು ತಿದ್ದುಪಡಿಯಾಗಿದೆ. ಅದರಲ್ಲಿಯೂ ಮುಖ್ಯವಾಗಿ, 1929ನೆಯ ಇಸವಿಯ XXನೆಯ ನಂಬರು ಆಕ್ಟಿನಿಂದ ಅದು ವಿಶೇಷವಾಗಿ ತಿದ್ದುಪಡಿಯಾಗಿದೆ. 1929ನೆಯ ಇಸವಿಯ ಆಕ್ಟಿನಿಂದ ಅದರ ಅನೇಕ ಪ್ರಕರಣಗಳಲ್ಲಿ ಬಹಳವಾಗಿ ಬದಲಾವಣೆಗಳಾಗಿವೆ. ಅಷ್ಟೇ ಅಲ್ಲ. ಮತ್ತೊಂದು ತಿದ್ದುಪಾಟು ನಡೆದಿದೆ: ಕೆಲ ಕೆಲವು ಅಂಶಗಳಲ್ಲಿ ಒಂದು ಹೈ ಕೋರ್ಟಿನವರ ತೀರ್ಮಾನವು ಒಂದು ರೀತಿಯಲ್ಲಿದ್ದರೆ, ಮತ್ತೊಂದು ಹೈ ಕೋರ್ಟಿನವರ ತೀರ್ಮಾನವು ಅದಕ್ಕೆ ವಿರುದ್ಧವಾಗಿ ಮತ್ತೊಂದು ರೀತಿಯಲ್ಲಿದ್ದಿತು. ತೀರ್ಮಾನಗಳು ಹೀಗೆ ಪರಸ್ಪರ ವಿರುದ್ಧವಾಗಿರುವ ಸ್ಥಿತಿಗೆ ಅವಕಾಶವೇ ಇಲ್ಲದೆ ಒಮ್ಮುಖವಾಗಿರುವಂತೆ ಸಂದೇಹಗಳನ್ನೆಲ್ಲ ಹೋಗಲಾಡಿಸಿ ನಾನಾ ಅಂಶಗಳೂ ಸ್ಪಷ್ಟ ಪಡುವಂತೆಯೂ ಸಹ, ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದ ಆಕ್ಟು 1929ನೆಯ ಇಸವಿಯ ಆಕ್ಟಿನಿಂದ ತಕ್ಕಂತೆ ತಿದ್ದುಪಾಟಾಯಿತು. ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಕಾನೂನನ್ನೂ ಸಹ, ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದ ಕಾನೂನಿನಿಗನುಸಾರವಾಗಿ ತಿದ್ದುಪಡಿ ಮಾಡುವುದು ಅವಶ್ಯಕವೆಂದು ತೋರಿಬಂದಿದೆ. ಒಟ್ಟಿನಲ್ಲಿ ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದ ಕಾನೂನನ್ನೇ ಹೋಲುವಂತೆಯೂ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಸ್ಥಿತಿಗಳ ದೃಷ್ಟಿಯಿಂದ ನಡೆಯಬೇಕಾದ ಕೆಲವು ಬದಲಾವಣೆಗಳನ್ನೂ ಸೇರಿಸಿಯೂ, ಕಾನೂನನ್ನು ಏರ್ಪಡಿಸುವುದರಿಂದ ಅನುಕೂಲವೂ ಉಂಟು. ಈ ಉದ್ದೇಶದಿಂದ ಈಗ ಮನೂದಾ ಕಾನೂನನ್ನು ರಚಿಸಲಾಗಿದೆ.

ಈಗ ಜಾರಿಯಲ್ಲಿರುವ ಕಾನೂನಿನಲ್ಲಿ ಕೆಲವು ನ್ಯೂನತೆಗಳ ದೆಸೆಯಿಂದ ಜನರಿಗೆ ಅನಾನುಕೂಲಗಳಾಗುತ್ತಿವೆ. ಉಳಿದ ನ್ಯೂನತೆಗಳ ದೆಸೆಯಿಂದ ಅನನ್ಯ ಸ್ಥಿತಿಗಳುಂಟಾಗಲು ಅವಕಾಶವಿದೆ. ಈ ನ್ಯೂನತೆಗಳು ಪರಿಹಾರವಾಗುವಂತೆ ಮಾತ್ರ ಈಗಿನ ಕಾನೂನನ್ನು ತಿದ್ದುಪಡಿ ಮಾಡುವುದಕ್ಕಾಗಿ ಮನೂದಾಕಾನೂನನ್ನು ರಚಿಸಲಾಗಿದೆ. ಕೋರ್ಟು

ಗಳವರು ಅಂಗೀಕರಿಸಿರುವ ನೂತನ ತತ್ತ್ವಗಳಲ್ಲಿ ಮುಖ್ಯವಾದವುಗಳನ್ನೂ ಸಹ ಮನೂದಾ ಕಾನೂನಿನಲ್ಲಿ ಅಡಕಮಾಡಿ ಸೇರಿಸಲಾಗಿದೆ. ಈಗ ಮನೂದಾಕಾನೂನಿನಲ್ಲಿ ಸೇರಿರುವ ನಿಬಂಧನೆಗಳ ಸಂಬಂಧದಲ್ಲಿ ವಿಶೇಷರೀತಿಯಲ್ಲಿ ಗಮನಿಸಬೇಕಾದ ಮುಖ್ಯ ನಿಯಮಗಳು ಯಾವುವೆಂದರೆ:—

1. ಒಂದು ದಸ್ತಾವೇಜು ರಿಜಿಸ್ಟ್ರಾರಾದರೇ ಅದರ ವಿಷಯವಾಗಿ ನೋಟೀಸು ಕೊಟ್ಟು ತಿಳಿವಳಿಕೆಗೆ ತಂದಂತೆ — ಎಂಬ ಅರ್ಥಕ್ಕೆ ನಿಯಮವನ್ನೇರ್ಪಡಿಸಲಾಗಿದೆ.

2. ಯಜಮಾನನಾದ ಒಬ್ಬಾತನು ಒಬ್ಬ ಏಜೆಂಟನ್ನು (ಮುತಾಲಿಕನನ್ನು) ವ್ಯಾಪಾರ ಮುಂತಾದ ಕಾರ್ಯಗಳನ್ನು ನೆರವೇರಿಸುತ್ತಿರುವುದುಂಟು. ಅಂಥ ಸಂದರ್ಭದಲ್ಲಿ, ಆ ಏಜೆಂಟು ನಡೆಯಿಸುತ್ತಿರುವ ವ್ಯಾಪಾರ ವ್ಯವಹಾರಗಳಿಗೆ ಪರಿಣಾಮಕಾರಿಯಾದ ಮುಖ್ಯ ಸಂಗತಿಯು ಅವನು ಆ ಉದ್ಯೋಗದಲ್ಲಿ ನಿರತನಾಗಿರುವಲ್ಲಿ ಅವನ ತಿಳಿವಳಿಕೆಗೆ ಬಂದಿರುವುದೆಂದು ಭಾವಿಸುವುದಕ್ಕೆ ಅವಕಾಶವಿರುವ ಸನ್ನಿವೇಶದಲ್ಲಿ ಅದು ಅವನ ಯಜಮಾನನ ತಿಳಿವಳಿಕೆಗೆ ಬಂದಂತೆಯೇ— ಎಂದು ಭಾವಿಸಲ್ಪಡಬೇಕೇ ಹೊರತು, ಅದು ತನಗೆ ತಿಳಿದಿರಲಿಲ್ಲವೆಂದು ಆ ಯಜಮಾನನು ಹೇಳಲು ಆಸ್ತದವಿಲ್ಲವೆಂದು ವಿಧಾಯಕ ಮಾಡಿ ನಿಬಂಧನೆಯನ್ನೇರ್ಪಡಿಸಲಾಗಿದೆ. ಆದರೆ, ಏಜೆಂಟು ಮೋಸವಾಡುವ ಉದ್ದೇಶದಿಂದ ಆ ಸಂಗತಿಯನ್ನು ಯಜಮಾನನಿಗೆ ತಿಳಿಸದೆ ತಪ್ಪಿದ್ದ ಸಂದರ್ಭಗಳಿಗೆ ಇದು ಅನ್ವಯಿಸುವುದಿಲ್ಲ.

3. ಒಂದು ತರಗತಿಗೆ ಸೇರಿದವರೆಲ್ಲರಿಗೂ ಒಟ್ಟಾಗಿ ಸ್ವತ್ತು ವರ್ಗಾಯಿಸಲ್ಪಡುವ ಸಂದರ್ಭಗಳಿರುತ್ತವೆ. ಆ ತರಗತಿಯ ಜನರಲ್ಲಿ ಸ್ವತ್ತನ್ನು ಕೊಟ್ಟವನು ಹಾಕಿರುವ ಷರತ್ತು ನೇರವೇರದೆ ಹೋಗಿ ಸ್ವತ್ತನ್ನು ಪಡೆಯುವುದು ಸಾಧ್ಯವಿಲ್ಲದವರು ಕೆಲವರು ಇರುವ ಸನ್ನಿವೇಶವೂ ಒದಗಬಹುದು. ಹಾಗಿರುವ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ ಸಹ ಅಂಥ ಸ್ವತ್ತಿನ ವರ್ಗಗಳು ಉರ್ಜಿತವಾಗಬೇಕೆಂದು ಅಂಗೀಕರಿಸಲಾಗಿದೆ. ಆ ತರಗತಿಯ ಜನರಲ್ಲಿ ಯಾರು ಸ್ವತ್ತನ್ನು ಪಡೆಯಬಹುದೋ ಅವರು ಸ್ವತ್ತನ್ನು ಪಡೆದು ಪ್ರಯೋಜನ ಹೊಂದುವಂತೆ, ಆ ಬಗೆಯ ವರ್ಗಗಳು ಫಲಕಾರಿಯಾಗುವುದು ಇದರ ಪರಿಣಾಮ. ಅದಕ್ಕೆ ಸಾಧಕವಾಗುವಂತೆ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

4. ಸ್ವತ್ತಿನ ವರ್ಗದ ಸಂಬಂಧದಲ್ಲಿ ಒಬ್ಬನು ತಾನು ನೆರವೇರಿಸಬೇಕಾದ ಕೆಲಸವನ್ನು ನೆರವೇರಿಸಿ ದಸ್ತಾವೇಜು ಹುಟ್ಟಿದ್ದೂ ಅದು ರಿಜಿಸ್ಟ್ರಾರಾಗಿಲ್ಲವೆಂಬ ಒಂದೇ ಕಾರಣಕ್ಕಾಗಿ ನಷ್ಟಹೊಂದಬೇಕಾಗುವ ಕೆಲವು ಸಂದರ್ಭಗಳಲ್ಲಿ ಅವನಿಗೆ ಅನುಕೂಲವಾಗುವಂತೆ ಕಾನೂನು ಇರಬೇಕಾದುದು ಅವಶ್ಯಕವೆಂಬ ತತ್ತ್ವವನ್ನು ಅಂಗೀಕರಿಸಿ ನಿಬಂಧನೆ ಮಾಡಲಾಗಿದೆ. ಆದರೆ ಹೀಗೆ ಮಾಡುವುದರಲ್ಲಿ ಒಂದು ಎಚ್ಚರಿಕೆಯನ್ನೂ ತೆಗೆದುಕೊಳ್ಳಲಾಗಿದೆ. ರಿಜಿಸ್ಟ್ರಾರಾಗಿದ್ದರೂ ದಸ್ತಾವೇಜು ಹೀಗೆ ಅಂಗೀಕಾರ ಯೋಗ್ಯವಾಗುವುದೆಂದು ಭಾವಿಸಿ ಜನರು ದಸ್ತಾವೇಜುಗಳನ್ನು ರಿಜಿಸ್ಟ್ರೇ ಮಾಡಿಸದೆ ರಿಜಿಸ್ಟ್ರೇಷನ್ ನಿಬಂಧನೆಗಳನ್ನು ಲಂಘಿಸುವುದಕ್ಕೆ ಅವಕಾಶವಿಲ್ಲದಂತೆ ಮಾಡುವುದೇ ಆ ಎಚ್ಚರಿಕೆ.

5. ಸ್ವತ್ತನ್ನು ಅಡಮಾನ ಮಾಡಿರತಕ್ಕವನು ಫಲಾನಾ ವಾಯಿದೆ ತಾರೀಖಿನ ದಿನ ಹಣವನ್ನು ಪಾವತಿ ಮಾಡದೆ ತಪ್ಪುವುದೇ ಮುಂತಾದ ಕೆಲವು ನಿರ್ದಿಷ್ಟ ಸನ್ನಿವೇಶಗಳು ಒದಗಿದರೆ, ಅಡಮಾನವಾಗಿರುವ ಸ್ವತ್ತು ಅದನ್ನು ಅಡಮಾನಮಾಡಿಕೊಂಡಿರುವವನಿಗೆ ವಿಕ್ರಯವಾದಂತೆಯೇ ಭಾವಿಸಬೇಕೆಂಬ ಷರತ್ತಿನ ಮೇಲೆ ನಡೆಸಿರುವ ಅಡಮಾನಗಳ ವಿಷಯದಲ್ಲಿ ಒಪ್ಪಂದದ ಆ ಸನ್ನಿವೇಶಗಳು ಮೊದಲೇ ಅಡಮಾನ ಪತ್ರದಲ್ಲಿ ನಮೂದಾಗಿರಬೇಕೆಂದು ವಿಧಾಯಕಮಾಡಿ ಮನೂದಾ ಕಾನೂನಿನಲ್ಲಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

6. ಸ್ವತ್ತನ್ನು ಅಡಮಾನ ಮಾಡಿಕೊಂಡಿರುವಾತನು ತನಗೆ ಸಲ್ಲಬೇಕಾದ ಮೊಬಲಗನ್ನು ತೆಗೆದುಕೊಂಡು ಸ್ವತ್ತಿನ ಅಡಮಾನವನ್ನು ಮತ್ತಾವನಿಗಾದರೂ ವರ್ಗಾಯಿಸಿಕೊಡಬೇಕೆಂದು ಸ್ವತ್ತನ್ನು ಅಡಮಾನಮಾಡಿದವನು ಕೋರಿದಲ್ಲಿ ಆತನು ಹಾಗೆ ವರ್ಗಾಯಿಸಿ ಕೊಡಲೇಬೇಕಾಗುವಂತೆ ವಿಧಾಯಕಮಾಡಿ ಮನೂದಾ ಕಾನೂನಿನಲ್ಲಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

7. ಅಡಮಾನ ಮಾಡಿದವನು ಸ್ವತ್ತನ್ನು ಅಡಮಾನ ಮಾಡಿಕೊಂಡವನ ಸ್ವಾಧೀನದಲ್ಲಿಟ್ಟಿರುವ ತನ್ನ ಸ್ವತ್ತಿನ ಬಾಬತು ಹಕ್ಕಿನ ದಸ್ತಾವೇಜುಗಳನ್ನು ಕೇಳುವುದಕ್ಕೂ ಅವುಗಳನ್ನು ನೋಡಿ ಅವುಗಳ ನಕಲುಗಳನ್ನು ಬರೆದು ಕೊಳ್ಳುವುದಕ್ಕೂ ಅವನಿಗೆ ಹಕ್ಕುಂಟೆಂಬ ಅಂಶವನ್ನು ಸ್ಪಷ್ಟವಾಗಿ ನಮೂದಿಸಿ ಮನೂದಾಕಾನೂನಿನಲ್ಲಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

8. ಒಬ್ಬನು ಮತ್ತೊಬ್ಬನಿಗೆ ಅನೇಕ ಅಡಮಾನಗಳನ್ನು ಮಾಡಿದ್ದರೆ, ಅವನು ತನ್ನ ಇಷ್ಟಾನುಸಾರವಾಗಿ (ಅಡಮಾನ ಮಾಡಿಕೊಂಡಿರುವವರಿಂದ) ಅಡಮಾನಗಳನ್ನು ಪ್ರತ್ಯೇಕ ಪ್ರತ್ಯೇಕವಾಗಿಯೇ ಆಗಲಿ ಅಥವಾ ಎಲ್ಲ ಅಡಮಾನಗಳನ್ನೂ ಒಟ್ಟಿಗೇ ಆಗಲಿ ಬಿಡಿಸಿಕೊಳ್ಳಬಹುದೆಂಬುದನ್ನೂ ಸ್ಪಷ್ಟವಾಗಿ ನಮೂದಿಸಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

9. ಅಡಮಾನ ಮಾಡಿಕೊಂಡವನು ತನ್ನ ಸ್ವಾಧೀನದಲ್ಲಿಟ್ಟುಕೊಂಡಿರುವ ಅಡಮಾನದ ಸ್ವತ್ತನ್ನು ಅದು ಸಮರ್ಪಕವಾದ ಸ್ಥಿತಿಯಲ್ಲಿರುವುದಕ್ಕೆ ಅವಶ್ಯಕವಾದ ರೀತಿಯಲ್ಲಿ ಆದಾದು ಮಾಡಬೇಕೆಂದೇನೂ ಈಗ ಸ್ಪಷ್ಟವಾಗಿ ರೆಗ್ಯುಲೇಷನ್ನಿನಲ್ಲಿ ವಿಧಾಯಕವಾಗಿಲ್ಲ. ಮನೂದಾಕಾನೂನಿನಲ್ಲಿ ಅದನ್ನು ಸ್ಪಷ್ಟಪಡಿಸಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

10. ಸ್ವತ್ತನ್ನು ಅಡಮಾನ ಮಾಡಿದವನು ತನ್ನ ಸ್ವಾಧೀನದಲ್ಲೇ ಇರುವ ಆ ಅಡಮಾನದ ಸ್ವತ್ತನ್ನು ಇತರರಿಗೆ ಗೇಣಿಗೆ ಕೊಟ್ಟಲ್ಲಿ ಯಾವ ಯಾವ ಸಂದರ್ಭಗಳಲ್ಲಿ ಅವನು ಇತರರೊಡನೆ ಮಾಡಿಕೊಂಡ ಗೇಣಿ ಒಪ್ಪಂದ ಷರತ್ತುಗಳಿಗೆ ಸ್ವತ್ತನ್ನು ಆ ಮೊದಲೇ ಅಡಮಾನಮಾಡಿಕೊಂಡಿರುವವನೂ ಬದ್ಧನಾಗಿರುವಂತೆ ಮಾಡುವುದಕ್ಕೆ ಅವನಿಗೆ ಅಧಿಕಾರವುಂಟೆಂಬ ಅಂಶವನ್ನೂ ಕಾನೂನಿನಲ್ಲಿ ಅಂಗೀಕರಿಸಿ ಆ ಸಂಬಂಧವಾಗಿ ಮನೂದಾ ಕಾನೂನಿನಲ್ಲಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ. ಆದರೆ, ಅಡಮಾನ ಮಾಡಿಕೊಂಡವನಿಗೆ ಅಯುಕ್ತ ರೀತಿಯಲ್ಲಿ ತೊಂದರೆಗಳಾವುವೂ ಆಗದಂತೆ ಕೆಲವು ರಕ್ಷಣೀಯ ಸಾಧನಗಳನ್ನು ಕಲ್ಪಿಸಿ ಆ ರೀತಿ ಮಾಡಲಾಗಿದೆ.

ಆಧಾರ, ಬೋಗ್ಯ, ವಿಕ್ರಯ ಮುಂತಾದುವುಗಳಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಕಾನೂನಾದ ಸ್ವತ್ತುಗಳ ಪರಿವರ್ತನೆಯ ರೆಗ್ಯುಲೇಷನ್ನಿನಲ್ಲಿ ಕೆಲವು ಬದಲಾವಣೆಗಳನ್ನು ಮಾಡುವ ಉದ್ದೇಶದಿಂದ ಒಂದು ಮಸೂದಾ ಕಾನೂನನ್ನು ಈಗ ರಚಿಸಿರುವುದು ಸರಿಯಷ್ಟೆ. ಈ ಬದಲಾವಣೆಗಳನ್ನು ಮಾಡಿದ ಪಕ್ಷದಲ್ಲಿ ಅವುಗಳ ಪರಿಣಾಮವಾಗಿ, (1) "ಸ್ಪೆಸಿಫಿಕ್ ನಿರುವುದು ಸರಿಯಷ್ಟೆ." ಎಂಬ ಕಾನೂನಿನಲ್ಲಿಯೂ, (2) ರಿಜಿಸ್ಟ್ರೇಷನ್ ರೆಗ್ಯುಲೇಷನ್ನಿನಲ್ಲಿಯೂ, (3) ಉತ್ತರ ವಾರಸು ವಿಲೀಫ್ ಆಕ್ಟ್ " ಎಂಬ ಕಾನೂನಿನಲ್ಲಿಯೂ, (4) ಲಿಮಿಟೇಡ್ ರೆಗ್ಯುಲೇಷನ್ನಿನಲ್ಲಿಯೂ ಹಕ್ಕಿಗೆ ಸಂಬಂಧಪಟ್ಟ "ಸೆಕ್ಸೆಷನ್ ಆಕ್ಟ್" ಎಂಬ ಕಾನೂನಿನಲ್ಲಿಯೂ, (5) ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನಲ್ಲಿಯೂ ಸಹ ಅವಕ್ಕೆ ತಕ್ಕಂತೆ ಕೆಲಕೆಲವು ಬದಲಾವಣೆಗಳನ್ನು ಮಾಡುವುದು ಅವಶ್ಯಕವಾಗಿರುತ್ತದೆ.

ಬಂದು ಸ್ಥಿರಸ್ವತ್ತನ್ನು ಇತರರಿಗೆ ವರ್ಗಾಯಿಸುವುದರ ಸಂಬಂಧದಲ್ಲಿ ನೆರವೇರಿಸಬೇಕಾಗಿರತಕ್ಕ ಕ್ರಮಗಳೆಲ್ಲವೂ ಪೂರ್ತಿಯಾಗಿ ನೆರವೇರದೆ ಅವುಗಳಲ್ಲಿ ಕೆಲವು ಕ್ರಮಗಳು ಮಾತ್ರ ನೆರವೇರಿರುವ ಕೆಲವು ಸಂದರ್ಭಗಳಲ್ಲಿ ಜನರಿಗೆ ನಷ್ಟವಾಗದಂತೆ ಮಾಡುವುದು ಅವಶ್ಯಕವಾಗುತ್ತದೆ. ಇಂಥ ಸಂದರ್ಭಗಳಲ್ಲಿ ಜನರಿಗೆ ನಷ್ಟವಾಗುವುದನ್ನು ತಪ್ಪಿಸುವುದಕ್ಕಾಗಿ ಅನುಸರಿಸಬೇಕಾದ ನಿಯಮವನ್ನು ಸ್ವತ್ತುಗಳ ಪರಿವರ್ತನೆಯ ರೆಗ್ಯುಲೇಷನಿನಲ್ಲಿ ಈಗ ಹೊಸದಾಗಿ ಏರ್ಪಡತಕ್ಕ 53A ಪ್ರಕರಣದಲ್ಲಿ ಸೇರಿಸಲಾಗಿದೆ. ಆ ನಿಯಮವನ್ನು ಜಾರಿಗೆ ತರುವುದಕ್ಕಾಗಿ “ಸ್ಟೆಪ್‌ಸಿಫಿಕ್ ರಿಲೀಫ್ ಆಕ್ಟಿನಲ್ಲಿ” ಕೂಡ ತಿದ್ದುಪಾಟು ಅವಶ್ಯಕ. ಅದಕ್ಕಾಗಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

ಸ್ಥಿರಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಡಿಕ್ರಿಗಳು, ಕೋರ್ಟು ಹುಕುಮುಗಳು ಮತ್ತು “ಅವಾರ್ಡ್” ತೀರ್ಪುಗಳು— ಇವುಗಳನ್ನು ಹವಾಲೆ ಮಾಡಿರತಕ್ಕ ಸಂದರ್ಭಗಳಲ್ಲಿ, ಹಾಗೆ ಹವಾಲೆ ಮಾಡಿದುದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ದಸ್ತಾವೇಜುಗಳನ್ನು ಅವು ಸಲ್ಲುವಳಿಯಾಗಬೇಕಾದರೆ ಪ್ರತಿಯೊಂದು ಸಂದರ್ಭದಲ್ಲಿಯೂ ರಿಜಿಸ್ಟ್ರಾರ್‌ನಿಗೆ ಡಿಸಲೇಬೇಕೆಂಬ ನಿಯಮವೇರ್ಪಡುವಂತೆ ರಿಜಿಸ್ಟ್ರೇಷನ್ ರೆಗ್ಯುಲೇಷನನ್ನು ತಿದ್ದುಪಾಟು ಮಾಡಲು ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ. ಸ್ವತ್ತನ್ನು ವರ್ಗಾಯಿಸುವ ಸಂಬಂಧದಲ್ಲಿ ನಡೆಯಬೇಕಾದ ಕ್ರಮಗಳೆಲ್ಲವೂ ನೆರವೇರದೆ ಇದ್ದಾಗ್ಯೂ ನ್ಯಾಯವಾಗಿ ಸ್ವತ್ತು ಸ್ವಾಧೀನವನ್ನು ಪಡೆದಿರುವವರೇ ಮುಂತಾದವರಿಗೆ, ಆಯಾ ವ್ಯವಹಾರಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ದಸ್ತಾವೇಜು ರಿಜಿಸ್ಟ್ರಾರ್‌ನಿಗೆ ಲಭ್ಯವಿರುವ ಕಾರಣದ ಮೇಲೆ ನಷ್ಟವಾಗುವುದಕ್ಕೆ ಅವಕಾಶವಿಲ್ಲದಂತೆ ಮಾಡುವ ಉದ್ದೇಶದಿಂದ ತಿದ್ದುಪಾಟು ಮಸೂದಾಕಾನೂನಿನಲ್ಲಿ ಹೊಸದಾಗಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ. ವಿಧಾಯಕವಾಗಿರುವ ರೀತಿಯ ಕೆಲವು ಸಂದರ್ಭಗಳಲ್ಲಿ ಆ ನಿಬಂಧನೆಯನ್ನು ಅಚರಣೆಗೆ ತರುವುದರಲ್ಲಿ, ಕೋರ್ಟುಗಳವರು, ರಿಜಿಸ್ಟ್ರಾರ್‌ಗೆ ಇರತಕ್ಕ ದಸ್ತಾವೇಜುಗಳನ್ನೂ ಸಾಕ್ಷ್ಯವಾಗಿ ಅಂಗೀಕರಿಸುವಂತೆ ಅವರಿಗೆ ಅಧಿಕಾರವಿರುವ ಹಾಗೆ ನಿಬಂಧನೆ ಮಾಡಿದೆ.

ಸ್ವತ್ತುಗಳ ಪರಿವರ್ತನೆಯ ರೆಗ್ಯುಲೇಷನಿನ 15, 16, 17 ಮತ್ತು 18ನೆಯ ಪ್ರಕರಣಗಳನ್ನು ಈಗ ರಚಿಸಿರುವ ಮಸೂದಾಕಾನೂನಿನ ಮೂಲಕ ತಿದ್ದುಪಾಟು ಮಾಡಲಾಗುವುದು. ಈ ತಿದ್ದುಪಾಟುಗಳಿಗನುಗುಣವಾಗಿ “ಸಕ್ಸೆಷ್ ಆಕ್ಟ್” ನ್ನೂ (ಉತ್ತರವಾರಸು ಹಕ್ಕಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಕಾನೂನನ್ನೂ) ತಿದ್ದುಪಡಿಸಿ ಮಾಡಿ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

ಸ್ಥಿರಸ್ವತ್ತಿನಲ್ಲಿ ತನಗೆ ಹಕ್ಕನ್ನು ಉಂಟುಮಾಡಿ ಕೊಟ್ಟಿರುವ ಪತ್ರಗಳನ್ನು ಠೇವಣಿಮಾಡುವುದರ ಮೂಲಕ ಆ ಸ್ವತ್ತನ್ನು ಅಡಮಾನ ಮಾಡಿರುವವರಿಂದ ಆ ಅಡಮಾನದ ಬಾಬತು ಬರಬೇಕಾದ ಮೊಬಲಗನ್ನು ವಸೂಲಾಡಿಕೊಳ್ಳುವುದಕ್ಕಾಗಿ ಸ್ವತ್ತನ್ನು ಅಡಮಾನಮಾಡಿಕೊಂಡಿರುವವನು ದಾಖಲೆ ಮಾಡಬೇಕಾಗುವುದಷ್ಟೆ. ಹಾಗೆ ದಾಖಲೆ ಮಾಡಲಾಗಬೇಕಾದರೆ ಎಷ್ಟು ಕಾಲದೊಳಗಾಗಿ ಆಗಬೇಕೆಂದು “ಲಿಮಿಟೇಷನ್” ವಾಯಿದೆಯನ್ನು ಗೊತ್ತುಮಾಡುವುದಕ್ಕಾಗಿ ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನಿನಲ್ಲಿ ತಿದ್ದುಪಾಟನ್ನು ಮಾಡಬೇಕಾಗಿದೆ. ಅದಕಾರಣ ಲಿಮಿಟೇಷನ್ ರೆಗ್ಯುಲೇಷನನ್ನು ತಿದ್ದುಪಾಟು ಮಾಡುವುದಕ್ಕಾಗಿ ಈಗ ರಚಿಸಿರತಕ್ಕ ಮಸೂದಾಕಾನೂನಿನಲ್ಲಿ ಈ ತಿದ್ದುಪಾಟನ್ನೂ ಸಹ ಸೇರಿಸಲಾಗಿದೆ.

ಇನ್ನು, ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನಲ್ಲಿ ಮಾಡಬೇಕಾದ ತಿದ್ದುಪಾಟುಗಳ ವಿಚಾರ. ಈ ತಿದ್ದುಪಾಟುಗಳು ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನ ಮೊದಲನೆಯ ಷೆಡ್ಯೂಲಿನ XXXIVನೆಯ ಹುಕುಮಿಗೂ (ಆರ್ಟಿಕಲ್) ಮತ್ತು D ಪರಿಶಿಷ್ಟದಲ್ಲಿ ಕೊಟ್ಟಿರುವ ನಮೂನೆಗಳಿಗೂ ಸಂಬಂಧಪಟ್ಟವಾಗಿವೆ. ಈ ತಿದ್ದುಪಾಟುಗಳನ್ನು ಯಥಾ ಕಾಲದಲ್ಲಿ ಹೈ ಕೋರ್ಟಿನವರೇ ಮಾಡಬಹುದಾಗಿದೆ. ಏಕೆಂದರೆ ಇಂಥ ತಿದ್ದುಪಾಟು ನಿಬಂಧನೆಗಳನ್ನು ಮಾಡುವ ಅಧಿಕಾರವು ಹೈ ಕೋರ್ಟಿನವರಿಗೇ ಇದೆ. ಆದುದರಿಂದ ಈ ತಿದ್ದುಪಾಟುಗಳನ್ನು ಮಾಡಲು ಯಾವ ಮಸೂದಾಕಾನೂನನ್ನೂ ರಚಿಸದೆ ಆ ವಿಚಾರವನ್ನು ಹೈ ಕೋರ್ಟಿನವರಿಗೇ ಬಿಡಲಾಗಿದೆ.

ಬಂಗಲೂರು,

ತಾರೀಖು, 2-10-1937.

ಎ. ಸುಂದರ್ ರಾಜಾರಾವ್,

ಮೈಸೂರು ಪ್ರಜಾಪ್ರತಿನಿಧಿ ಸಭೆಯ ಸೆಕ್ರೆಟರಿ.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Bangalore, Dated, 18th December 1934

No.

73059

From

The Chief Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Registrar,
High Court of Mysore,
Bangalore.

Sir,

I am directed to request you to favour Government with the views of the High Court if clause (i) of sub section (i) of Section 60 of the Mysore Code of Civil Procedure may be amended on the lines of the changes made in the British Indian Code of Civil Procedure by Act 26 of 1923.

I have the honour to be,

Sir,

Your most obedient servant,

For Chief Secretary to Government.

TSS.

SUBJECT

Section *65*File No. *104-34*Serial No. *1*

Diary No. of letter replied to

No. *P3059/*

To

The Right Hon'ble

General and Revenue Secretariat

()
the 193 .

Sir,

I am directed to

request you to favour

Date of issue

19/12/34

Govt with the views

Signed by

*M. C. Fye*of the High Court
clausis of sub section
of the S. 60 of
the Indian Code

of Civil Procedure may

be amended on

the lines of the

Change made in

the B. & Indian

Code of Civil Procedure

by Act 26 of 1923

I have etc

List of enclosures

Copied by

ms/12

Examined by

ms
(5) for chief Secy

R.O. No. 108
Dis. 84.35

HIGH COURT OF MYSORE
Public Office Buildings, Cubbon Park,

Bangalore, 11th January 1935.

FROM

104-36-2

S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,
Registrar, High Court of Mysore.

To
Rajasevasakta

R. Ranga Rao, Esq., B.A., B.L.,
Chief Secretary to the Government of Mysore,
B a n g a l o r e.

SIR,

With reference to your letter No.P.3059/Cts.104-34-1,
dated 18th/19th December 1934, asking for the opinion of the
High Court whether clause (i) of subsection (1) of Section 60 of
the Mysore Code of Civil Procedure may be amended on the lines
of the changes made in the British Indian Code of Civil
Procedure by Act 26 of 1923, I am directed to state that the
Judges are in favour of such an amendment.

I have the honour to be,
Sir,
Your most obedient servant,

S. Venkata Ranga Iyengar
Registrar.

VJC.

Copy of letter No.218/²~~36~~-35 dated 29th June 1935 from the 4
Registrar, High Court of Mysore to the General Secretary to the
Government of Mysore.

With reference to your letter No.P.5291/Legis. 26th March 1935 stating that the question of amending the Code of Civil Procedure, 1911, on the lines of the Bills Nos.9 and 11 of 1935 under consideration in the Legislative Assembly, is engaging the attention of the Government, and in that connection requesting the opinion of the High Court on the desirability of introducing similar legislation in Mysore, I am directed to state that the High Court is of opinion that there is a good deal to be said for those proposals, though the High Court is not sure that the proposed pecuniary limits are well-chosen. The High Court would, however, think that it would be wise to defer legislation in the State until the bills have been discussed and disposed of in the Imperial Legislature. The discussion may well be very useful and instructive. And, if legislation is postponed, unnecessary difference may be avoided, though the High Court ~~is~~ is far from suggesting that legislation in British India should be followed in all details in Mysore.

I am further to state that in regard to Bill No.9 of 1935 the High Court considers that it is very undesirable that the course proposed of making amendment to the rules in schedule I of the Code by Act should be followed in Mysore. It is anomalous ~~th~~ that that should be done in British India, but the object, it is to be supposed is to ensure uniformity in different ~~th~~ provinces. That reason does not apply here. If the Sections of the Code are amended here by legislation, the question of amending the rules in schedule I can then be taken by the High Court and the Rule Committee in the ordinary way.

Copy of letter No 541 of 26. 10. 1936 from Sir Charles
Toddhunter Private Secretary to His Highness the Maharaja
of Mysore to the Dewan.

I am afraid I have troubled you several times
on the question of legislation, or action by
the High Court, in connection with the matter
of arrest and imprisonment for debt. I see from
an article which I enclose that the Govt of
India have at last taken action in the matter.
Perhaps you have already decided to follow their
example. Should you not have done so, May I suggest
a study of the Act which they have passed?

(Sd). C. Toddhunter.

" Firm Member With Compliments "

(Sd) M.M.S.
26.10.1936

Ch. Secy W.C. for a note with a copy of the bill

(Sd) S.P.R.
2/11/36.

Law Sect. Carly

(Sd) B. T. K.

TELEGRAPHIC ADDRESS:-
COMMITTEE OORGAUM."

MESSRS. JOHN TAYLOR & SONS' COMMITTEE.

OORGAUM,
SOUTH INDIA.

January. 20. 1938.

Ref. No. 242(a)

A. Sundararaja Rao, Esq., B.A., B.L.,

Secretary,

Mysore Legislative Council,

B a n g a l o r e.

Sir,

I have the honour to refer to the proposed Bill further to amend the Code of Civil Procedure 1911 and published in the Mysore Gazette on 9th December 1937. one of the stated objects being to raise the limit of wages wholly exempt from attachment up to and inclusive of Rs.50/-.

It is observed that Section 60 in the present Code sub-section (1), clause (k) referring to non-liability to attachment and now reading:-

"the wages of labourers and domestic servants whether
"payable in money or in kind"

is re-numbered clause (h) and reads as follows:-

"the wages of labourers and domestic servants whether
"payable in money or in kind; and salary, to the extent
"of the first Rs.50/- and one-half of the remainder of
"such salary".

7

I am desired to point out however that the definition of "Labourer" as at present understood by the Courts does not include a skilled labourer although it has been stated also that a person is a labourer within the meaning of this Section (section 60) who earns his daily bread by personal manual labour or in occupations which require little or no skill or previous education.

In view of this the Mining Companies beg to submit to Government that with the object of placing the definition of "Labourer" beyond doubt the re-numbered clause (h) should be amended to read:-

"the wages of labourers, both skilled and unskilled,
"and domestic servants whether payable in money or
"in kind; and salary, to the extent of the first Rs.50/-
"and one-half of the remainder of such salary".

I am desired to request that the submission of the Mining Companies in this matter may receive the attention of Government before the proposed Bill is presented at the Session of the Mysore Legislative Council to be held during the forthcoming week.

I have the honour to be,

Sir,

Your most obedient servant,


Secretary.

Please quote our

Ref. No.

16-3

OORGAUM,

MYSORE STATE,

S. INDIA.

March 14, 1938.

A. Sundararaja Rao, Esq., B.A., B.L.,
Secretary,
Mysore Legislative Council,
Bangalore.

S i r,

I have the honour to refer to the proposed Bill further to amend the Code of Civil Procedure 1911, and to my contribution to the discussion of same during the January 1938 Session of the Legislative Council.

I now find that I shall be leaving India earlier than I had anticipated and shall therefore be unable to attend the meetings of the Select Committee on the Bill, to which I was elected a member.

I should therefore be obliged if I may have the following request placed before the Select Committee, viz.-

That the re-numbered Clause (h) should be amended to read:-

"The wages of labourers, both skilled and unskilled, and domestic servants whether payable in money or in kind; and salary, to the extent of the first Rs.50/- and one-half of the remainder of such salary."

I have the honour to be,
S i r,
Your most obedient servant,

P. J. Browne

SUPERINTENDENT.

This may, if approved, be
referred to S. C. for consideration
now.

17-3

17/3

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

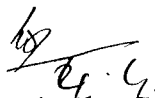
General and Revenue Secretariat

No. P 5537-43 Dated, Bangalore, 5.4. 1938

Official Memorandum.

A meeting of the Select Committee appointed to consider the
C. P. C. Amendment Bill will be held in the Chambers of
the First Member of Council, Public Offices Buildings, Bangalore
at 2 P.M. on Tuesday, the 12th April 1938

By Order,


Secretary to the Committee.

- To
- ✓ 1) Mr. Venkataswamy Iyer Esq.
 - ✓ 2) Mr. N. Lakshminarayana Iyer Esq.
 - ✓ 3) D. Ramachandra Iyer Esq.
 - ✓ 4) H. R. Subramaniam Esq.
 - ✓ 5) J. Sathyanarayana Iyer Esq.
 - ✓ 6) C. Arinimayam Rao Esq.
 - ✓ 7) P. J. Chandra Iyer

Copy to P.A. to 1st number
" Office Bk
" H. C. Office

56

"Please substitute the word 'Act' for the word 'Regulation' wherever it occurs in this."

NOTIFICATION.

No. 2794—L. C., dated Bangalore, 29th November 1937.

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Code of Civil Procedure, 1911, for certain purposes is published for general information with the statement of objects and reasons.

By Order,
A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

A Bill further to amend the Code of Civil Procedure, 1911, for certain purposes.

Whereas it is expedient further to amend the Code of Civil Procedure, 1911, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Regulation may be called the Code (Short title) of Civil Procedure Amendment Regulation, 1937.

2. In the proviso to sub-section (1) of Section 60 of Amendment of Section 60, the Code of Civil Procedure, Regulation III of 1911. 1911.—

(a) for clauses (h) and (i), the following clauses shall be substituted, namely:—

- “(h) the wages of labourers and domestic servants, whether payable in money or in kind; and salary, to the extent of the first fifty rupees and one-half the remainder of such salary;
- (i) the salary of any public officer or of any servant of a railway company or local authority to the extent of the first fifty rupees and one-half the remainder of such salary;

Provided that, where the whole or any part of the portion of such salary liable to attachment has been under attachment, whether continuously or intermittently for a total period of

twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months and where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree ;”

(b) for clause (k), the following clause shall be substituted, namely :—

(k) any allowance forming part of the emoluments of any public officer or of any servant of a railway company or local authority which the Government may by Notification in the Official Gazette declare to be exempt from attachment, and any subsistence grant or allowance made to any such officer or servant while under suspension.”

(c) The explanation at the end shall be renumbered as explanation one and to the explanation so renumbered the following words shall be added :—

“ and in the case of salary other than salary of a public officer or a servant of a railway company or local authority the attachable portion thereof is exempt from attachment until it is actually payable,” and

(d) after the explanation as so renumbered the following explanation shall be added namely :—

“ *Explanation 2.*—In clauses (h) and (i), ‘Salary’ means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (k) derived by a person from his employment whether on duty or on leave.”

3. The amendments made by Section 2 shall not have effect in respect of any proceedings arising out of any suit instituted before the first day of June, nineteen hundred and thirty-eight.

Retrospective effect.

Statement of Objects and Reasons.

The Royal Commission on Labour drew attention to the indebtedness prevailing among certain classes of

workers and expressed the view that this was due mainly to the credit enjoyed by them and the facilities afforded to creditors by the law relating to the attachment of salaries. With a view to reducing credit, the Commission recommended that wages and salaries of workmen receiving less than Rs. 300 a month should be entirely exempted from attachment. The Government of India after consulting the Provinces came to the conclusion that Rs. 100 was a more suitable limit than Rs. 300 and they also considered that the recommendations made by the Royal Commission which applied to workmen should apply equally to the public officers, servants of local bodies and railway servants as well. Action was accordingly taken by the Government of India to amend Section 60 of the Code of Civil Procedure relating to the attachment of salary and it has been suitably amended by Act IX of 1937.

2. The Committee appointed to examine the question of indebtedness of officials in Mysore have also recommended that in respect of attachment of salary by civil courts the exemption limit may be raised from Rs. 20 to Rs. 50.

3. At present in Mysore the salary wholly exempt from attachment is Rs. 20 and where the salary is Rs. 40 Rs. 20 is exempt and moiety of it in other cases. Having regard to the conditions prevailing in Mysore, Government consider that salary up to and inclusive of Rs. 50 and also one-half of the remainder of such salary should be exempt from attachment. It is accordingly proposed to amend Section 60 of the Code of Civil Procedure on the lines of the amended Act IX of 1937 of British India.

4. The Bill empowers Government to exempt any allowance forming part of the emoluments of any public officer or of any servant of a railway company or local authority and any subsistence grant or allowance made to any such officer or servant while under suspension.

5. It also allows the attachment of leave allowances of these debtors which was hitherto exempt from attachment.

6. It further provides that the amending legislation shall apply to all suits instituted after a certain date. The existing decree and suits will not therefore be affected.

- ✓ 3) K. R. Sukhramachar Esy B.A., L.L.B
- 4) J. Mahomed Imam Esy B.A., B.L
- 5) ✓ C. Guruswamy Rao Esy.

GOVERNMENT OF THE KINGDOM OF MYSORE

General and Revenue Secretariat,

Dated, Bangalore, 29th April 1938.

D.O.No. P 89 89-93/Enc 1.

Dear Sir,

I am desirous to forward herewith a copy of the draft report of the Select Committee on the Bill to amend the Code of Civil Procedure and to request that the same may be returned with your approval at your earliest convenience.

Yours sincerely,

WJ
28-4

WJ

17

*Select Committee's
report on*

Bill further to amend the Code of Civil Procedure, 1911, for certain purposes.

We the members of the ~~213~~ Selected Committee appointed to consider the Bill further to amend the Code of Civil Procedure, 1911, have considered the Bill and have now the honour to submit this our Report:-

The only change that we recommend is that for June¹¹ in clause 3, the word "July" may be substituted.

As the Bill has not undergone any material alteration, it need not be republished.

I agree.
Mark Musham

Wm. W. P. M.

30-6-38

G. GIRIMAJI RAO,
MEMBER, LEGISLATIVE COUNCIL.

6288 237
KOLAR 18
20/4 / 1938.

WJ
2-5
Dear Sir,

I am forwarding herewith the draft report of the Select Committee on the bill to amend the Civil Procedure Code being duly approved by me

Yours sincerely,
G. Girimaji Rao

To,

A. Sundara Raja Rao Esq. B.A. B.L.

Secretary

Hyd. Leg. Council

Old Public Office

Banapur

19
Bill further to amend the Code of Civil Procedure, 1911, for certain purposes.

the members of the ~~1911~~ Selected Committee appointed to consider the Bill further to amend the Code of Civil Procedure, 1911, have considered the Bill and have now the honour to submit this our Report:-

The only change that we recommend is that for ⁱⁿ June in clause 3, the word "July" may be substituted.

As the Bill has not undergone any material alteration, it need not be republished.

Approved


2
G. M. R. R. R.
30/4/38

02/10/1
Select Committee Report
on

Bill further to amend the Code of Civil Procedure, 1911, for certain purposes.

We the members of the ~~@@@~~ Selected Committee appointed to consider the Bill further to amend the Code of Civil Procedure, 1911, have considered the Bill and have now the honour to submit this our Report:-

The only change that we recommend is that for June in clause 3, the word "July" may be substituted.

As the Bill has not undergone any material alteration, it need not be republished.

2/5/38

by
J. Ramachandran

Bill further to amend the Code of Civil Procedure, 1911, for certain purposes.

by
G.S.
the members of the ~~QED~~ Select~~d~~ Committee appointed to consider the Bill further to amend the Code of Civil Procedure, 1911, have considered the Bill and have now the honour to submit this our Report:-

The only change that we recommend is that for "June" in clause 3, the word "July" may be substituted.

As the Bill has not undergone any material alteration, it need not be republished.

by
gms for am
1.5.38

Member, The Mysore Legislative Council,
The Hassan District Board and
The Hole-Narsipur Municipal Council.

4.8.38

1/5
S

Ref. P 5489-
93

Dear Sir,

The draft report of the Select Committee
on the Bill to amend the Code of Civil Procedure
is returned with my approval.

Yours sincerely,

K. R. Subbannachar

70

To Secretary,

Legislative Council

Bangalore.

23

*Select Committee's Report
on*

Bill further to amend the Code of Civil Procedure, 1911, for certain purposes.

The members of the ~~QID~~ Selected Committee appointed to consider the Bill further to amend the Code of Civil Procedure, 1911, have considered the Bill and have now the honour to submit this our Report:-

The only change that we recommend is that for June in clause 3, the word "July" may be substituted.

As the Bill has not undergone any material alteration, it need not be republished.


W. S. Munro

NOTIFICATION.

No. 3718—*L. C. Bangalore, dated 10th May 1938.*

Under Standing Order No. 49 of the standing orders for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Bill further to amend the Code of Civil Procedure, 1911, is published for general information.

By Order,
A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

Report of the Select Committee on the Bill further to amend the Code of Civil Procedure, 1911.

We, the members of the Select Committee appointed to consider the Bill further to amend the Code of Civil Procedure, 1911, have considered the Bill and have now the honour to submit this our Report:—

The only change that we recommend is that for “June” in clause 3, the word “July” may be substituted.

As the Bill has not undergone any material alteration, it need not be republished.

S. P. RAJAGOPALACHARI (*Chairman*).
MIRLE N. LAKSHMINARANAPPA,
T. RAMACHANDRA,
J. MOHAMED IMAI
G. GIRIMAJI RAO,
K. R. SUBBANNACHAR.

Messrs. M. Venkatesa Iyengar and P. J. Crowle were unable to be present at the meeting.

[Portions omitted are enclosed in square brackets and additions are indicated in italics.]

**A Bill further to amend the Code of Civil Procedure, 1911,
for certain purposes.**

(As amended by the Select Committee)

Whereas it is expedient further to amend the Code of Civil Procedure, 1911, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This *Act* may be called the Code (Short title) of Civil Procedure Amendment *Act*, 1938.

2. In the proviso to sub-section (1) of Section 60 of Amendment of Section 60, the Code of Civil Procedure, *Act* III of 1911. 1911.—

(a) for clauses (h) and (i), the following clauses shall be substituted, namely:—

“(h) the wages of labourers and domestic servants, whether payable in money or in kind; and salary, to the extent of the first fifty rupees and one-half the remainder of such salary;

(i) the salary of any public officer or of any servant of a railway company or local authority to the extent of the first fifty rupees and one-half the remainder of such salary.

Provided that, where the whole or any part of the portion of such salary liable to attachment has been under attachment, whether continuously or intermittently for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months and where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree;”

(b) for clause (k), the following clause shall be substituted, namely:—

(k) any allowance forming part of the emoluments of any public officer or of any servant of a railway company or local authority which the Government may by Notification in the Official Gazette declare to be exempt from attachment, and any subsistence grant or allowance made to any such officer or servant while under suspension.”

(c) The explanation at the end shall be renumbered as explanation one and to the explanation so renumbered the following words shall be added:—

“and in the case of salary other than salary of a public officer or a servant of a railway company or local authority the attachable portion thereof is exempt from attachment until it is actually payable,” and

(d) after the explanation as so renumbered the following explanation shall be added namely:—

“*Explanation 2.*—In clauses (h) and (i), ‘Salary’ means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (k) derived by a person from his employment whether on duty or on leave.”

3. The amendments made by Section 2 shall not have effect in respect of any proceedings arising out of any suit instituted before the first day of [June] *July* nineteen hundred and thirty-eight.

Retrospective effect

DRAFT.

SUBJECT.....

Section. *dyis*
File No. *6-38*
Serial No. *2.1*

Diary No. of letter replied to.....

Proceedings of the Government of
H. H. the Maharaja of Mysore.

Order No. *P310 / Sec 1*

GENERAL AND REVENUE SECRETARIAT,

()
, the.....191 .

Ordered that the accompanying *Sec*
further to amend the
Code of Civil Procedure

which received the assent of His. High-
ness the Maharaja, on the *eighth*
day of *July* 19*38*,
be published as Regulation No. *Sec* *XVI*
of 19*38*, in the *Mysore Gazette* for gene-
ral information.

Date of issue.....*15-7-38*

Signed by.....*Mr. BKR.*

May this be—

- (i) Printed?
- (ii) Treated as a standing order?
- (iii) Published in the "Gazette" English part?
- (iv) Translated?
- (v) Placed at the disposal of the Press?
- (vi) Published in the "Gazette" Kannada part?

le
Sec. Secretary to Government.

To

The Compiler, *Mysore Gazette*, for
publication in Part *II* of the Gazette, in
English and Kannada and for supply of
.....spare copies in English, and
.....spare copies in Kannada *to*
this office, and spare copies
in English and spare copies
in Kannada to the Curator, Government
Central Book Depot, Bangalore. Proofs
should be sent to this office for approval
before publication.

Copy to Translation
Section

54

28

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Read:-
~~xxxx~~

Order No. P310 Lys' 6-38 ¹/_{Enc 1.}

15-
Dated Bangalore, 14th July 1938.

Ordered that the accompanying Act further to amend the Code of Civil Procedure which received the assent of His Highness the Maharaja, on the ~~eighteenth~~ eighth day of July 1938, be published as Act No. XIII of 1938, in the Mysore Gazette, for general inform


For General Secretary to Government.

To

r, Mysore Gazette, for publication in
v of the Gazette, in English & Kannada
and for supply of spare copies in English &
Kannada as per Standing Orders. Proofs should
be sent to this office for approval before
publication.

22/7

29

NOTIFICATION.

Order No. P. 310—Legis. 6-38-1—dated Bangalore,
the 15th July 1938.

Ordered that the accompanying Act further to amend the Code of Civil Procedure which received the assent of His Highness the Maharaja, on the eighth day of July 1938, be published as Act No. XIII of 1938, in the *Mysore Gazette*, for general information.

By Order,

C. SUBRAHMANYA AIYAR,
Offg. Secretary to Government,
General Department.

ACT No. XIII OF 1938.

(Received the assent of His Highness the Maharaja
on the Eighth day of July 1938.)

**An Act further to amend the Code of Civil Procedure, 1911
for certain purposes.**

Whereas it is expedient further to amend the Code of Civil Procedure, 1911, for the purposes hereinafter appearing; it is hereby enacted as follows:—

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1938. Short title.

2. In the proviso to sub-section (1) of section 60 of the Code of Civil Procedure, 1911. Amendment of section 60, Act III of 1911.

(a) for clauses (h) and (i), the following clauses shall be substituted, namely:—

“(h) the wages of labourers and domestic servants, whether payable in money or in kind; and salary, to the extent of the first fifty rupees and one-half the remainder of such salary;

(i) the salary of any public officer or of any servant of a railway company or local authority to the extent of the first fifty rupees and one half the remainder of such salary:”

NOTIFICATION.

*Order No. P. 310—Legis. 6-38-1—dated Bangalore,
the 15th July 1938.*

Ordered that the accompanying Act further to amend the Code of Civil Procedure which received the assent of His Highness the Maharaja, on the eighth day of July 1938, be published as Act No. XIII of 1938, in the *Mysore Gazette*, for general information.

By Order,

C. SUBRAHMANYA AIYAR,
Offg. Secretary to Government,
General Department.

ACT No. XIII OF 1938.

*(Received the assent of His Highness the Maharaja
on the Eighth day of July 1938.)*

**An Act further to amend the Code of Civil Procedure, 1911
for certain purposes.**

Whereas it is expedient further to amend the Code of Civil Procedure, 1911, for the purposes hereinafter appearing; it is hereby enacted as follows:—

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1938. Short title.

2. In the proviso to sub-section (1) of section 60 of the Code of Civil Procedure, 1911 Amendment
of section 60,
Act III of
1911.

(a) for clauses (h) and (i), the following clauses shall be substituted, namely:—

- “(h) the wages of labourers and domestic servants, whether payable in money or in kind; and salary, to the extent of the first fifty rupees and one-half the remainder of such salary;
- (i) the salary of any public officer or of any servant of a railway company or local authority to the extent of the first fifty rupees and one half the remainder of such salary:

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Correspondence ~ 1530